COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

One South Station • Boston, MA 02110-2208
(617) 521-7794 • FAX (617) 521-7773
TTY/TDD (617) 521-7490
http://www.state.ma.us/doi

JANE SWIFT
GOVERNOR

JENNIFER DAVIS CAREY
DIRECTOR, CONSUMER AFFAIRS
AND BUSINESS REGULATION

LINDA RUTHARDT
COMMISSIONER OF INSURANCE

BULLETIN 01-08

To: Commercial Insurers, Blue Cross and Blue Shield of Massachusetts (BCBSMA) and Health Maintenance Organizations (HMOs) Offering Nongroup Health Insurance

From: Linda Ruthardt, Commissioner of Insurance

Re: Nongroup Health Insurance Open Enrollment Periods

Date: August 10, 2001

The Division of Insurance issued Bulletin 00-11 on September 8, 2000 to notify carriers of the enactment of Chapter 140 of the Acts of 2000, which was signed into law on July 21, 2000. As was noted in Bulletin 00-11, Chapter 140 amended M.G.L. c. 176M (the nongroup law) and directed other changes regarding nongroup health insurance in Massachusetts. The Division promulgated amendments to *Nongroup Health Insurance Rate and Policy Form Filings, Review, and Hearing Procedures Under M.G.L. c. 176M*, 211 CMR 41.00, in order to implement certain provisions of this Act.

On June 15, 2001, the Division notified carriers with nongroup guaranteed issue health plans that the Division had completed its review of guaranteed issue nongroup health insurance form and rate filings effective as of December 1, 2001. The Division is sending this bulletin to remind carriers with guaranteed issue health plans regarding certain provisions of Chapter 140 that affect the offering of products (1) during the annual open enrollment period that is to be held between September 1 and October 31, 2001 for policies that become effective December 1, 2001 and (2) during the continuous open enrollment period that begins November 1, 2001 for policies that are to become effective within 30 days of application for coverage.

Open Enrollment Provisions In Effect Until November 1, 2001

- Definition of Eligible Individual

During the September-October 2001 open enrollment period – including all applications submitted with postmarks through October 31, 2001 - carriers may only accept applications from

individuals who satisfy the current M.G.L. c. 176M definition of an eligible person which is in effect through October 31, 2001. Carriers are to take steps to ensure that persons contacting them to apply for coverage during the September-October 2001 open enrollment period are sent an application that reflects the eligibility criteria in effect through October 31, 2001. Carriers are also to inform persons who do not meet the eligibility criteria in effect through October 31, 2001 that they may be eligible under criteria becoming effective as of November 1, 2001 and to send an application that reflects the November 1, 2001 eligibility criteria.

- September 1-October 31, 2001: No Pre-Existing Condition Limitations or Waiting Periods

Although the statute changes become effective November 1, 2001, prior to that date, carriers may not impose any pre-existing condition limitation or waiting periods on coverage issued to eligible persons who apply for coverage prior to November 1, 2001. Therefore, carriers may not impose any pre-existing condition or any waiting periods on coverage effective December 1, 2001 for any eligible persons, according to the definition effective through November 1, 2001, who apply during the September 1 through October 31, 2001 annual open enrollment period.

Open Enrollment Provisions In Effect Beginning November 1, 2001

- New Definition of Eligible Individual

Effective November 1, 2001, the definition of "eligible individual" is changed to include any natural person who is a resident of Massachusetts and is not enrolled for coverage under Part A or Part B of Medicare or under Medicaid. Please note that carriers may no longer deny enrollment to individuals who are eligible for or enrolled in any group product, including those offered under M.G.L. c. 176J (governing small group health insurance). Carriers are to take steps to ensure that persons contacting them to apply for coverage on or after November 1, 2001 are given an application that reflects the eligibility criteria in effect as of November 1, 2001.

- Beginning November 1, 2001: Continuous Open Enrollment

Effective November 1, 2001, carriers must offer continuous open enrollment for nongroup guaranteed issue products. As part of their annual product submission and as allowed under Chapter 140 of the Acts of 2000, some carriers filed guaranteed issue health plans that may impose, depending on the individual's circumstances, up to a six-month pre-existing condition exclusion or waiting period for those persons submitting applications postmarked on or after November 1, 2001. Carriers with such limitations in their guaranteed issue health plans should ensure that they adhere to the standards specified in 211 CMR 41.00 when determining whether a pre-existing condition exclusion or a waiting period applies and that they credit the time enrollees were covered under prior creditable coverage if the previous coverage was reasonably actuarially equivalent to the new coverage and continuous to a date not more than 63 days prior to the date of the request for new coverage. As noted in 211 CMR 41.00, if prior creditable coverage is not reasonably actuarially equivalent to the new coverage, carriers are to ensure that the covered person receives the benefits of the previous health

benefit plan during the term of the pre-existing condition period or waiting period. If the previous coverage is under Medicare or Medicaid, the previous coverage is presumed to be reasonably actuarially equivalent to the new health benefit plan.

Please refer to Chapter 140 of the Acts of 2000 and 211 CMR 41.00 for the full text of all changes and their effective dates. Additional bulletins and regulatory amendments will be issued as necessary. Questions about this bulletin should be directed to the Health Unit at the Division of Insurance, (617) 521-7349, or faxed to (617) 521-7773.