940 CMR 9.00: GROUP HEALTH CARE INSURERS, TERMINATION OF COVERAGE

Section

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9.01: Purpose

The Attorney General of the Commonwealth of Massachusetts promulgates 940 CMR 9.00 relating to Group Health Care Insurers, as defined herein, pursuant to his authority under M.G.L. c. 93A, § 2(c). 940 CMR 9.00 is designed to promote the health and economic well-being of individuals whose health coverage is cancelled without their knowledge after their Group Health Insurance Plan Sponsor has failed to remit required premiums.

9.02: Scope

The Attorney General's regulations define unfair and deceptive acts or practices. The Attorney General's regulations are not intended to be all-inclusive as to the types of activities prohibited by M.G.L. c. 93A, §2(a), and they do not authorize acts not specifically prohibited by 940 CMR 9.00.

940 CMR 9.00 shall cover any Group Health Care Insurer, as defined herein, that advertises or does business in Massachusetts regardless of whether it maintains an office in Massachusetts.

9.03: Definitions

Covered Dependent means the eligible spouse, former spouse, child or foster child of a Subscriber who was covered under a Group Health Insurance Plan on the day before the effective date of the termination of the Group Health Insurance Plan.

Group Health Care Insurer means a Person who contracts to pay for or provides health care services to Massachusetts residents under a Group Health Insurance Plan, including but not limited to any Person authorized to do business pursuant to M.G.L. c. 175, any nonprofit hospital service corporation organized pursuant to M.G.L. c. 176A, any medical service corporation organized pursuant to M.G.L. c. 176B, any dental service corporation organized pursuant to M.G.L. c. 176E, any optometric service corporation organized pursuant to M.G.L. c. 176F, any health maintenance organization organized pursuant to M.G.L. c. 176G, and any preferred provider arrangement organized pursuant to M.G.L. c. 176I. 940 CMR 9.00 is not intended to apply to the activities of such Persons in providing administrative services to employers who maintain self-funded group health insurance plans or to multiemployer plans maintained pursuant to collective bargaining agreements.

Group Health Insurance Plan means a contract, arrangement or policy between a Group Health Care Insurer and a Sponsor under which the Group Health Care Insurer agrees to pay for or provide medical, chiropractic, optometric, dental or other health care services. For the purposes of 940 CMR 9.00, the term Group Health Insurance Plan does not include employer self-funded plans or multiemployer plans maintained pursuant to collective bargaining agreements.

Sponsor means any Person including, but not limited to, employer, professional, trade and civic organizations, who has a place of business in Massachusetts and who maintains a Group Health Insurance Plan covering two or more Subscribers and their Covered Dependents.

Subscriber means a Sponsor's present or former eligible employees or members who were covered under the Sponsor's Group Health Insurance Plan on the day before the effective date of the termination of the Group Health Insurance Plan.

9.03: continued

Person means a natural person or organization including a corporation, partnership, association, cooperative or trust, or any other legal entity.

9.04: Unfair and Deceptive Acts or Practices

It shall be an unfair and deceptive act or practice, in violation of M.G.L. c. 93A, § 2, for any Group Health Care Insurer to deny a Subscriber's claim for health care services or benefits on the ground that the Sponsor's Group Health Insurance Plan has been terminated for nonpayment of fees, charges, rates or premiums prior to the date on which the Subscriber or a Covered Dependent received the health care services, unless the Group Health Care Insurer has sent written notice of the termination to the Subscriber prior to the date that the health care services were received in the manner set forth in 940 CMR 9.05. A Group Health Care Insurer does not violate M.G.L. c. 93A, § 2 by denying a Subscriber's claim for services or benefits if the Sponsor or Subscriber has replaced the Group Health Insurance Plan with another insured plan or self-insured plan.

9.05: Written Notice of Termination

(1) Home Address. A Group Health Care Insurer will satisfy the written notice condition set forth in 940 CMR 9.04 by mailing, to the last-known home address of the Subscriber, a letter that includes the following information:

(a) the date on which the Sponsor's Group Health Insurance Plan was terminated;

(b) that the termination was for nonpayment of fees, charges, rates or premiums; and

(c) that the Group Health Care Insurer will honor claims, to the extent covered under the Group Health Insurance Plan, for any covered health care service received by the Subscriber or his or her Covered Dependents prior to the notification date. The Group Health Care Insurer must send the letter by either first-class or certified mail, postage pre-paid.

(2) Reasonable Efforts. A Group Health Care Insurer must make a reasonable effort to determine the accurate names and home addresses of Subscribers. A Group Health Care Insurer will be deemed to have made a reasonable effort under 940 CMR 9.05 if it has made a written request, within one year before the notice of termination, that a Sponsor provide it with the current names and home addresses of all Subscribers. A Group Health Care Insurer may rely upon the accuracy of the name and address information supplied by a Sponsor, Subscriber or other reliable source within one year before the notice of termination.

(3) Work Address. If a Group Health Care Insurer, after reasonable efforts, is unable to obtain the home address of a Subscriber, it will satisfy its obligations under 940 CMR 9.05 by mailing the notice to the Subscriber at his or her last-known work address.

(4) Effective Date of Notice. Notice of termination will be deemed effective three days after the date on which the Group Health Care Insurer mailed it to the Subscriber. The Group Health Care Insurer will have the burden of proving that it mailed the notice in a manner consistent with 940 CMR 9.05.

9.06: Exemption for Offer of Continuation of Coverage

(1) Temporary Continuation and Conversion Coverage. A Group Health Care Insurer is exempt from the provisions of 940 CMR 9.04 if, within 60 days of the effective date of the termination of a Group Health Insurance Plan for nonpayment of premiums, it sends written notice of termination to all Subscribers, in the manner set forth in 940 CMR 9.05, in which it offers each Subscriber the opportunity to elect "Temporary Continuation of Coverage" for the period between the effective date of termination of the Group Health Insurance Plan and the date of the notice. The Group Health Care Insurer also must offer, to those Subscribers who elect Temporary Continuation of Coverage and who pay the required premiums for the entire available period of the temporary coverage, "Conversion Plan" coverage that becomes effective upon termination of the Temporary Continuation of Coverage.

9.06: continued

(2) Terms and Conditions. To qualify for this exemption, the benefits offered and the premiums charged for the Temporary Continuation of Coverage must be the same as the benefits offered and premiums charged under the Group Health Insurance Plan at the time of its termination. Conversion Plan benefits and premiums may vary from those offered and charged under the Group Health Insurance Plan, as long as they meet the requirements of all applicable statutes and regulations, including those promulgated or enforced by the Division of Insurance. Any offer of Temporary Continuation of Coverage or Conversion Plan coverage under 940 CMR 9.06 may not be subject to any further conditions including, but not limited to, waiting periods or health screening. A Group Health Care Insurer must allow Subscribers at least 60 days from the date of an offer of Temporary Continuation of Coverage and Conversion Plan coverage to elect such coverage and to remit the premiums then due. Thereafter, a Group Health Care Insurer may not require a Subscriber who has elected coverage under a Conversion Plan to remit premiums more than one month in advance of the period to which the premiums apply.

9.07: Severability

If any provision of 940 CMR 9.00, or the application of such provision to any Person or circumstance, is held to be invalid, the validity of the remainder of 940 CMR 9.00, and the applicability of such provision to other Persons or circumstances, shall not be affected.

REGULATORY AUTHORITY

940 CMR 9.00: M.G.L. c. 93A, § 2(c).