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LINDA RUTHARDT
COMMISSIONER

Bulletin No. 96-18

To: Commercial Insurers, Blue Cross and Blue Shield of Massachusetts, and HMOs

From: Commissioner Linda Ruthardt

Re: Portability of Health Insurance under M.G.L. c. 176N

Date: September 16, 1996

As noted in Bulletin 96-12, St. 1996, c. 297 (Chapter 297), an emergency act affecting health insurance in the Commonwealth, became law on August 9, 1996. Due to a large number of inquiries about the "portability" provisions of chapter 297 (M.G.L. c. 176N), the Division is providing the following information. We ask that you distribute the information as appropriate to your insureds.

"Portability" is a word used to describe the ability to go from one health insurance plan to another without having to pass medical examinations or having to meet new waiting periods for pre-existing conditions. Chapter 297 added a portability provision to the Massachusetts general laws that, in conjunction with the new nongroup health insurance law which provides for guaranteed issue plans, will ultimately ensure portability into all insured health plans.

Effective August 15, 1996, access to insured group medical plans sponsored by employers without medical examination and with a maximum of six months' waiting period for pre-existing conditions (with credit applied for previous coverage with a qualifying plan) is required. (See Bulletin 96-13.)

Currently, individuals can lose access to group health insurance because all extensions of group coverage afforded to them by either federal law (*e.g.* COBRA) or state law have been exhausted. If carriers do not offer conversion plans, individuals with medical conditions might be left with no insurance or restricted benefits because of medical underwriting and new waiting periods for pre-existing conditions in nongroup policies. Once guaranteed issue nongroup plans become effective on or about September 1, 1997, individuals who are not eligible for group insurance plans or whose continuing benefits have run out will have access to plans without waiting periods or medical underwriting.

Carriers should also refer to the newly enacted federal law, the Health Insurance Portability and Accountability Act of 1996, (the so-called "Kennedy-Kassebaum" bill) to assist in explaining portability to insureds. Although many of its effective dates are different from those in Chapter 297, its passage will also affect Massachusetts insureds.

Any questions about Chapter 297 should be directed to Caroline E. DeStefano of the Office of the General Counsel at (617) 521-7364.