



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

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COMMISSIONER OF INSURANCE

**RESCINDED, EFFECTIVE OCTOBER 9, 2015**  
**BULLETIN 2015-06**

*Daniel R. Judson*  
10/9/15

To: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations (collectively, "Carriers")

From: Daniel R. Judson, Commissioner of Insurance

Date: August 13, 2015

Re: Transitional Renewal of Insured Health Plans for Employers with 51 – 100 Employees

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This Bulletin is being issued by the Division of Insurance ("Division") to notify all Carriers in the large group market that they will be permitted to renew existing 2015 health plans for employers with 51-100 employees (hereinafter, the "51-100 Employers") on or before October 1, 2016, for one year, and Carriers may continue to rate such policies as large group plans under Massachusetts state law and the Affordable Care Act ("ACA") during that additional period according to conditions outlined in this Bulletin.

This option to extend the time for transitioning these large group employers to ACA-compliant small group plans is in accordance with the March 5, 2014 memorandum issued by the Center for Consumer Information and Insurance Oversight ("CCIIO"), part of the Centers for Medicare & Medicaid Services, entitled "Insurance Standards Bulletin Series- Extension of Transitional Policy through October 1, 2016" (The "March 5, 2014 Bulletin").<sup>1</sup>

***Federal Guidance***

As noted in March 5, 2014 Bulletin, the ACA requires that the definition of a small group employer in the various states and other jurisdictions must change as of January 1, 2016, from being limited to employers with 50 or less employees to an employer with 100 or less employees. Under current Massachusetts law for coverage issued to eligible individuals and eligible small employers (hereinafter, the "Merged Market"), a small group employer is defined as including "any sole proprietorship, firm, corporation, partnership or association actively engaged in

<sup>1</sup> CCIIO provided additional guidance regarding transitional policy extensions in its May 16, 2014 guidance memorandum entitled "Frequently Asked Questions on Health Insurance Market Reforms and Marketplace Standards," (The "May 16, 2014 FAQ").

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business who, on at least fifty percent of its working days during the preceding year employed from among one to not more than fifty eligible employees, the majority of whom worked in the commonwealth." See Massachusetts General Laws Chapter 176J, Section 1. **Please note that with this ACA definitional change, beginning on or after January 1, 2016 Carriers will be permitted to issue *new* policies to 51-100 Employers *only* according to the rules that apply to the Merged Market.**

In its March 5, 2014 Bulletin, however, CCIIO indicated that a state *could* allow Carriers to permit 51-100 Employers to renew their existing 2015 health plans with renewal dates beginning on or before October 1, 2016, with such renewal allowed only for one year. The extended transitional policy in 2016 will *only* apply to those 51-100 Employers that have purchased new health insurance coverage *before* January 1, 2016. See CCIIO's May 16, 2014 FAQatNo.11.

***Massachusetts Conditions***

Pursuant to the guidance provided by CCIIO, and after consultation with industry and consumer stakeholders, the Division will allow but not require carriers to permit 51-100 Employers to renew their existing 2015 health plans on or before October 1, 2016, with such renewal period limited to only one year. As a result, by no later than October 1, 2017, *all* 51-100 Employers will be included in Massachusetts' Merged Market. The Division will consider renewals into substantially similar coverage during this transition period to be in compliance with the provisions of the Massachusetts insurance laws and the ACA that apply to the Merged Market.

Those Carriers that elect to offer the transitional renewal option to their 51-100 Employers may do so under the following terms and conditions:

- Carriers must notify the Commissioner of Insurance by no later than September 15, 2015 of their intention to offer the transitional renewal option to their 51-100 Employers.
- An employer is eligible for transitional renewal in 2016 if: (1) on October 1, 2015, the employer has between 51 and 100 employees *and* is covered by an insured health plan issued in Massachusetts; (2) the employer has more than 50 employees on the policy's renewal date; (3) the Carrier is still offering transitional renewal; and (4) the renewal date is *no later than* October 1, 2016 unless CCIIO and the Division extend the availability of transitional renewal.
- A Carrier may set a date *earlier* than October 1, 2016, as the last date on which it will offer transitional renewal of existing insurance coverage for 51-100 Employers, but must notify the Division of the earlier date when it notifies the Division that it will participate in transitional renewals.
- If a Carrier elects to offer transitional renewal to any eligible 51-100 Employers it *must* uniformly offer transitional renewal to *all* eligible 51-100 Employers according to the same terms and conditions.
- On or before December 31, 2015 - whether or not a Carrier offers transitional renewal - a Carrier may offer 51-100 Employers early renewal of existing insured health plans,

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*provided* that it makes the early renewal offer uniformly to all eligible 51-100 Employers *and* the renewal coverage is in force for not more than one year.

If you have any questions about this Bulletin, please contact Kevin Beagan, Deputy Commissioner, Health Care Access Bureau, at 617-521-7323, [kevin.beagan@state.ma.us](mailto:kevin.beagan@state.ma.us), or Robert A. Whitney, Deputy Commissioner and General Counsel, at 617-521-7308, [robert.a.whitney@state.ma.us](mailto:robert.a.whitney@state.ma.us).