

NEW JERSEY
SMALL EMPLOYER HEALTH BENEFITS PROGRAM

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ADVISORY BULLETIN NUMBER 94-01

TO: ALL CARRIERS AUTHORIZED TO ISSUE HEALTH BENEFITS PLANS IN NEW JERSEY;
ALL ASSOCIATIONS, MULTIPLE EMPLOYER ARRANGEMENTS, OUT-OF-STATE
TRUSTS ISSUING OR RENEWING HEALTH BENEFITS PLANS TO NEW JERSEY SMALL
EMPLOYERS; OTHER INTERESTED PERSONS

FROM: THE BOARD OF DIRECTORS OF THE SMALL EMPLOYER HEALTH BENEFITS
PROGRAM

RE: STATUTORY AMENDMENTS TO THE SMALL EMPLOYER HEALTH BENEFITS
PROGRAM

DATE: APRIL 29, 1994

On April 5, 1994, Governor Whitman signed A. 635, legislation to amend the statute authorizing the Small Employer Health Benefits ("SEH") Program, L. 1992, c. 162, N.J.S.A. 17B:27A-17 et seq. (the "SEH Act"). The amendatory law, L. 1994, c. 11, makes a number of significant changes to the SEH Program that will be implemented by regulations in the coming months. This bulletin is intended to provide guidance about the amendatory law, particularly during the period between the effective date of the law, April 5, 1994, and the sixtieth day following the SEH Board's promulgation of rating regulations, the date when certain provisions of the new law take effect. For purposes of this bulletin, this period will be referred to as the "transition period." The SEH Board intends to promulgate regulations some time before July 1, 1994, which would put the end of the transition period on or about September 1, 1994. This date is a target only, subject to change.

The types of small employer group health benefits plans that may be sold to New Jersey small employers and the rules that apply to each are described below. For purposes of this bulletin, the term "standard health benefits plans" refers to the five standard health benefits plans and HMO health benefits plan established by the SEH Board for issuance to small employers and adopted by regulation at N.J.A.C. 11:21-3. The term "non-standard health benefits plan" refers to only those health benefits plans that were issued to small employers by or through a carrier, association, multiple employer arrangement or out-of-state trust prior to January 1, 1994 and were in effect on February 28, 1994.

I. Standard health benefits plans

All small employer carriers, associations, multiple employer arrangements, and out-of-state trusts shall offer to all small employers the standard health benefits plans. Standard health benefits plans shall conform, in all respects, with the requirements of the SEH Act and rules promulgated thereunder.

The rating requirements for issuance of a standard health benefits plan must conform with N.J.A.C. 11:21-9 and, beginning on the first 12-month anniversary of the plan following the end of the transition period, the issuance or renewal of a standard health benefits plan shall conform with rating regulations to be adopted by the SEH Board. Until then, a carrier may continue to use those rating factors on file with the New Jersey Department of Insurance in rating a standard health benefits plan.

II. Non-standard health benefits plans

A. Renewal and continuation of a non-standard health benefits plan

A non-standard health benefits plan may be renewed or continued, including rating thereof, during the transition period, subject only to the laws and regulations in effect prior to April 5, 1994.

After the transition period, a non-standard health benefits plan may be renewed or continued, at the option of the small employer policy or contract holder, if, beginning on the first 12-month anniversary of the plan that occurs after the transition period, the plan conforms with the requirements of guaranteed issuance (with respect to all small employers and their eligible employees), preexisting condition limitations, guaranteed renewal, minimum participation requirements, modified community rating, and continuation of coverage, as set forth in the SEH Act and regulations promulgated thereunder.

A carrier, association, multiple employer arrangement, or out-of-state trust shall not withdraw a non-standard health benefits plan without the approval of the Commissioner of Insurance and shall keep such plans in effect, at the option of the small employer policy or contract holder, until the third 12-month anniversary date of the policy or contract occurring after February 28, 1994. A small employer may renew or continue a non-standard health benefits plan until the second 12-month anniversary date of the policy or contract occurring after February 28, 1994. The deductible or copayment of a non-standard health benefits plan renewed or continued may be changed.

B. Reinstatement of a non-standard health benefits plan

A non-standard health benefits plan whose anniversary date occurred between March 1, 1994 and April 5, 1994 and was canceled as a result of forced conversion to a standard health benefits plan may be reinstated, at the option of the small employer policy or contract holder, within 60 days of that anniversary date.

Beginning on the first 12-month anniversary of a reinstated plan that occurs after the transition period, the plan shall conform with the requirements of guaranteed issuance (with

respect to all small employers and their eligible employees), preexisting condition limitations, guaranteed renewal, minimum participation requirements, modified community rating, and continuation of coverage, as set forth in the SEH Act.

C. New issuance of a non-standard health benefits plan

An association, multiple employer arrangement or out-of-state trust may offer a non-standard health benefits plan only to a small employer that is a member of the same association, multiple employer arrangement or out-of-state trust, subject to the same conditions as apply to renewals of such plans. A carrier shall not offer or issue a non-standard health benefits plan to a small employer, except through an association, multiple employer arrangement or out-of-state trust.

III. Riders

In addition to the five standard health benefits plans and any riders thereto established by the SEH Board through regulations, carriers may offer riders that revise the coverage under any of the standard health benefits plans. Riders that increase or decrease the benefits or increase or decrease the actuarial value of the standard plans shall be filed with the SEH Board on an informational basis before such riders may be sold. Riders that decrease the benefits or decrease the actuarial value of the standard plans also shall be filed with the Commissioner of Insurance for prior review and approval before such riders may be sold.

Carriers that offer riders to the standard health benefits plans shall offer to all small employers the standard health benefits plans without riders, as well as with riders, in accordance with all requirements of the law.

IV. Employees receiving health coverage pursuant to a collective bargaining agreement

Employees that are covered by a health benefits plan through an employee welfare arrangement established pursuant to a collective bargaining agreement have been excluded from the pool of "eligible employees" for purposes of calculating the percentage of employee participation in a health benefits plan. Therefore, the determination of whether an employer is a "small employer" or whether a sufficient percentage of employees is participating in a health benefits plan shall not take into consideration the employees described above.

V. Coverage of an individual versus a "small employer."

A carrier, association, multiple employer arrangement, or out-of-state trust shall not issue, renew, or reinstate a standard or non-standard health benefits plan to a person who does not meet the definition of "small employer" set forth in the SEH Act. Such a person may instead seek coverage by an individual health benefits plan.