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# BULLETIN NO. 02-28

**TO:** ALL NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM CARRIERS

**FROM:** HOLLY C. BAKKE, COMMISSIONER

**RE:** SMALL EMPLOYER HEALTH COVERAGE RATE GUARANTEES

The Department of Banking and Insurance (Department) and the Small Employer Health Benefits Program (SEH) Board have become aware of a practice that may affect a health coverage carrier's ability to charge appropriate rates for a small employer health benefits plan. The practice consists of a small employer purchasing more than one health benefits plan from the same or different carriers at different costs. (These differences in cost are due to rating classification factors such as age and gender.) Lower cost (younger) employees enroll in one plan, and higher cost (older) employees enroll in another. The employer then terminates the higher cost coverage, and the employees covered under that plan may enroll (because of guaranteed issue requirements) in the lower cost plan. The consequence is that the cost profile of the employees in the remaining plan is significantly greater than is reflected in the originally charged rate.

SEH carriers have approached the Department asking whether premium rates may be changed in such a situation to more accurately reflect the risk of the new enrollees. The purpose of this bulletin is to provide guidelines to SEH carriers concerning rate changes to a plan after issue so that the new rates more appropriately reflect the risk factors of all the enrollees covered under the plan.

As set forth in the Appendix to N.J.A.C. 11:21, standard small employer health benefits plan contracts are required to contain a provision indicating that a carrier has the right to change premium rates as of, among other dates, any premium due date subject to 30 days notice. Therefore, based solely on standard contract language, carriers would be able to change the rates charged to the group to reflect the change in risk profile. However, many carriers choose to provide a particular group with a plan rate guarantee for a certain period of time, and that guarantee period must be included in the carrier's informational rate filing filed with the Department pursuant to N.J.A.C. 11:21-9.3(a)1.vi. Such a guarantee implies that the group's basic premium rates or rating factors filed pursuant to N.J.A.C. 11:21-9.3(a)1v, and the classification factors used to reflect the age, gender and rating tier of covered persons filed pursuant to N.J.A.C. 11:21-9.3(a)2i, will not be changed during the guarantee period.

In addition to a group premium rate for a particular plan, there is a per-employee premium rate for each person enrolled in the plan. The average per-employee premium rate generally depends on the cost profile of the covered group, which is determined by the average age/gender composition of the group. In those cases where a carrier provides a group premium rate guarantee, the Department does not require the carrier to guarantee the average per-employee premium rate. This is because the demographics of a particular covered group can change after issue or renewal.

Where a carrier chooses to provide a per-employee rate guarantee, the carrier is permitted some flexibility in its application, including:

- The carrier may recalculate the per-employee rate if the age/gender composition of the group changes solely as a result of cancellation of other SEH coverage.

- The carrier may guarantee the per-employee rate only so long as the change in cost resulting from changes in the age/gender composition of the covered group does not exceed a specified threshold (e.g., 10%). If the cost change exceeds the specified threshold, the carrier will recalculate the per-employee rates to reflect the changes, but base such a calculation on the basic group rates and cost factors that were guaranteed at the time the contract was issued or renewed.

A carrier using either of the above two methods, or some other method, to recalculate per-employee rates that were subject to a per-employee premium rate guarantee should observe the following:

- The carrier should fully describe the per-employee rate guarantee recalculation method in the carrier's informational rate filing;

- The recalculation must reflect the change in risk composition that was neither anticipated nor controlled by the carrier; and

- The recalculation must be uniformly applied to all policyholders, and must be applied to decreases as well as increases in the rate.

The Department intends to amend its rules at N.J.A.C. 11:21 consistent with the guidelines set forth in this bulletin. Questions regarding this bulletin should be FAX'd to the Department at 609-633-0527, Attention: Actuary - SEH Rates. The bulletin appears on the Department's website at http://www.nj.us/dobi.insnmu.shtml.

_11/6/02___ ____/s/ Holly C. Bakke_____
Date Holly C. Bakke, Commissioner

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