



**The State of New Hampshire
Insurance Department**

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**BULLETIN
No.: INS No. 07-068-AB**

TO: All New Hampshire Licensed Health Insurance Companies, Health Maintenance Organizations, Fraternal Benefit Societies and Third Party Administrators

FROM: Roger A. Sevigny
Insurance Commissioner 

DATE: September 7, 2007

RE: Guaranteed Issue

This bulletin is intended to clarify the requirements regarding the issuance of individual health insurance. It has come to the attention of the department that some carriers are refusing to issue individual coverage to persons based on those persons eligibility for group insurance. This is not allowed under New Hampshire law. By statute, the only basis for refusing to issue individual insurance is health status. RSA 420-G:5 II states that "health carriers providing health coverage to individuals may refuse to write or issue coverage to an individual because of his or her health status." By its express language, this statute does not permit health carriers to refuse to issue coverage for any reason other than health status.

In 2005, the General Court amended RSA 420-G:6, which pertains to guaranteed issue and renewal, by repealing RSA 420-G:6, II-a. This statute specifically allowed health carriers to refuse to issue individual policies of insurance to persons who were otherwise eligible for group insurance. The statute provided as follows: "Health carriers shall not be required to issue individual health insurance to individuals who are otherwise eligible for group health coverage. For purposes of this section, group health coverage shall include publicly-funded health insurance programs." At the time RSA 420-G:6, II-a first took effect in 1998, the law required carriers in both the individual and group market to guarantee issue their products to all applicants. The purpose of this statute at the time it was adopted was to prevent individuals who were eligible for group coverage from adversely selecting against the individual market.

In 2001, the General Court eliminated the requirement that carriers guarantee issue coverage in the individual market and created a high-risk pool as an insurer of last resort for those persons whose health conditions precluded them from obtaining coverage in the individual market. The repeal of the requirement that carriers guarantee issue coverage to all applicants in the individual market coupled with the creation of a high-risk pool eliminated the need to address the problem of adverse selection against the individual market by restricting persons eligible for group coverage from obtaining individual coverage. By law, a carrier that sells coverage in the individual market has the ability to protect itself from adverse risk selection by refusing to issue a policy of insurance to an applicant for health reasons.

The 2005 amendment deleting the provision that allowed a carrier to refuse to issue an individual policy based upon the applicant's eligibility for group coverage evidences the Legislature's intent to permit declination solely based on health status. If an applicant meets the carrier's requirements for health status, the law prohibits the carrier from invoking any other reason, such as eligibility for group coverage or occupation, as a reason to refuse to sell the individual policy to that applicant.

Questions should be directed to Leslie Ludtke at leslie.ludtke@ins.nh.gov at the New Hampshire Insurance Department.