

**State of New Hampshire Insurance Department
56 Old Suncook Road
Concord, New Hampshire 03301**

**Paula T. Rogers
Commissioner**

BULLETIN

Docket No: INS NO. 02-003-AB

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

FROM: Paula T. Rogers, Commissioner

DATE: January 24, 2002

RE: Chapter 295, Laws of 2001 (SB 118)

BACKGROUND

Chapter 295 of the 2001 New Hampshire Legislative Session fundamentally changes New Hampshire's Individual Health Insurance Market Rules. Prior to this legislation, individual health insurance writers had to guarantee issue all products they offered or renewed in this market. Further, carriers could vary insurance rates based on an insured's health status at issue by a factor no larger than 1.2 to 1.0.

The new legislation establishes a high risk insurance pool. Individual health insurance writers will no longer need to guarantee issue any products that they offer or renew in this market. Further, carriers will be able to vary insurance rates based on an insured's health status at issue by a factor as large as 1.5 to 1.0.

The purpose of this bulletin is to address issues regarding statutory requirements carriers must adhere to when renewing insureds. The bulletin will address concerns regarding possible adverse selection against carriers that are currently writing and that will continue to write in this market versus carriers that may enter this market once the high risk pool is operative. The bulletin will also attempt to delineate possible actions that existing market participants may take with respect to their existing blocks of business.

For purposes of this bulletin, it has been assumed that the high risk pool will be operative on July 1, 2002. References to issue date mean the date on which coverage is effective under the policy. The high risk pool's operative date will be the first date on which a high risk pool insurance policy could be issued. If the high risk pool is operative at some later date, date references throughout the remainder of this bulletin should be replaced to reflect the later operative date. For example, if the high risk pool were to become operative on September 1,

2002, references to July 1, 2002 should be replaced with September 1, 2002 and references to June 1, 2002 should be replaced with August 1, 2002.

Maintaining Separate Blocks of Business

Through the Department's bulletin dated December 28, 1994, RE: Chapter 294, Laws of 1994 (SB 711), the individual health insurance market was effectively segmented. Segment One included all individual health insurance policies issued prior to January 1, 1995, and which have been continuously renewed as issued. Segment Two includes all individual health insurance policies issued after December 31, 1994.

Segment One policies are not subject to the community rating requirements of RSA 420-G. Segment One's experience was not required to be bundled with Segment's Two experience for pricing either segment's policies.

With the implementation of Chapter 295, Laws of 2001, the Department will allow carriers to segment their business once again. Segment Three will include all policies issued on or after July 1, 2002. Generally, Segment Two will include all health insurance policies issued after December 31, 1994, but before July 1, 2002. Some exceptions are noted in the Marketing section of this bulletin.

Carriers may elect to merge market segments for rating purposes. Such an election shall be considered irrevocable. Carriers that have previously elected to merge business Segment One and Two must continue to treat this business as one segment. The election must be made for the entire segment. Partial segment mergers will not be allowed.

Segment Two business will be subsidizable by the New Hampshire Individual Health Plan Benefit Association ("Association") in accordance with the Association's Plan of Operation. A carrier's decision to merge Segments One and Two policies does not imply that Segment One policies will be subsidy eligible. Further, a carrier's decision to merge Segments Two and Three policies does not imply that Segment Two policies will cease being subsidy eligible. The Association is responsible for developing and maintaining the subsidy mechanism.

The Department acknowledges that Segment Two blocks may quickly deteriorate in an anti-selection death spiral. In reviewing requests for rate approvals, the Department will consider reasonable assumptions regarding the effects of anti-selection. However, the Department will not approve any rate filing that does not fully consider the likelihood that subsidies will be paid by the Association.

Uniform Product Discontinuance

Individual Market Participants seeking to effect a uniform product discontinuance should note that such an action is subject to both state and federal law. The Health Insurance Portability and Accountability Act (HIPAA) of 1996 establishes rules regarding uniform product discontinuance. New Hampshire laws and regulations also establish standards for a carrier's implementation of a uniform product discontinuance.

Carriers who implement a uniform product discontinuance of their Segment Two products must provide a guarantee issue option to all insureds affected by the product discontinuance for any coverage option that the carrier is offering at the time of the discontinuance. Carriers must provide insureds affected by the discontinuance with notice of the same at least 90 days prior to

the date of discontinuance. Further, insureds who were issued products within 5 years of the discontinuance date shall not have their health status factor adjusted when calculating the applicable premium for the product the affected insured elects for replacement coverage. The premium for an insured affected by a uniform product discontinuance may not be calculated with a health status factor that exceeds a multiple of 1.2 of the carrier's lowest health status factor when the replacement policy is issued. See RSA 420-G:6 VI.

Insureds affected by a uniform product discontinuance will be considered Segment Three insureds upon issuance of a replacement policy. Absent any operational changes implemented by the Association, the experience of these insureds will not be subsidizable.

Marketing

Applications for existing products shall be taken up until July 1, 2002. Carriers shall issue their Segment Two policies on a guaranteed issue basis to all applicants whose applications are dated prior to the date on which the high risk pool begins taking applications. Guaranteed issued policies applied for prior to July 1, 2002, but issued after July 1, 2002, will be considered Segment Two policies and should be subsidy eligible.

Carriers may take applications for Segment Three products once the Department has approved them. However, in no event, may a carrier accept an application for a Segment Three product before June 1, 2002. Further, a carrier may not issue a Segment Three policy with an effective date that is prior to July 1, 2002.

Notice to Potential Risk Pool Applicants

RSA 420-G:5 IV requires carriers to actively determine individuals who may be eligible for the high risk pool. Carriers shall make these determinations so that the required notice can be provided at each of the following times, as applicable:

- at the time of declination, e.g. when the carrier notifies the applicant that there will be no offer of coverage;
- at the time of issue, e.g. when the carrier makes an offer of coverage that is substantially similar to coverage available through the pool, but at a premium rate that is higher than the lowest premium rate at which such pool coverage could be obtained; and
- at the time of renewal or at any date on which a change in premium is being implemented, e.g. when the carrier notifies the individual of a premium rate change, and that premium rate is higher than the premium rate at which comparable coverage could be obtained in the high risk pool.

The Department will not allow carriers to provide notices to all insureds, e.g. explanations enabling individuals to determine whether they are eligible for high risk pool insurance coverage. The Department interprets the law to require carriers to use reasonable best efforts to direct the notices at individuals who are expected to be eligible for high risk pool insurance coverage.

Carriers shall begin to provide the notices required by this section no later than thirty days from the date the high risk pool's rates and plans are approved by the Commissioner. The high risk pool's rates, and their approval date, will be published on the Department's website.

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Amendments to Association plans and rates will also be posted on the Department's website as they are approved. During the first year of operation, changes to high risk pool plans and rates may occur as frequently as once per quarter. During subsequent years of operation, changes are not expected to occur more than once per year. Carriers will be expected to implement changes to their procedures to reflect changes to the high risk pool's plans and rates within thirty days of the Department's approval of the same.

The Department expects the Association to promulgate language for the required notice. This language will be available on the Department's website.

Summary

The Department recognizes that the potential for individual market consumers to be confused about their options during this transition period is very great. Carriers should make efforts to have consumer service staff who have been trained and educated on New Hampshire's unique market issues available to handle both producer and consumer inquiries during this time. Questions regarding this bulletin should be directed towards David Sky, Life, Accident and Health Actuary, e-mail dsky@ins.state.nh.us.