

RULE AND REGULATION 79

HEALTH INSURANCE CONSUMER CHOICE

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Section 1. Purpose

The purpose of this Regulation is to implement Act 1359 of 2003 that amended Ark. Code Ann. §23-79-803(c). This Regulation prescribes the form and manner of written notices provided by organizations offering health benefits plans, as defined in Ark. Code Ann. §23-79-802(a), which do not provide state mandated health benefits, as defined in Ark. Code Ann. §23-79-802(2)(A), in accordance with the "Arkansas Health Insurance Consumer Choice Act" in Ark Code Ann. §§23-79-801 *et seq.*

Section 2. Authority

This Rule is issued pursuant to the authority vested in the Insurance Commissioner in Ark. Code Ann. §§23-61-108 and 23-79-803(c).

Section 3. Applicability and Scope

This regulation shall apply to all organizations offering health benefits plans, as defined in Ark. Code Ann. §23-79-802(1).

4. Effective Date

The provisions of this Rule shall be effective on November 13, 2003.

Section 5. Required Written Notice Upon Rejection Of State Mandated Health Benefits

Every organization which offers to its proposed insureds a health benefits plan, which either in whole or in part, does not have state mandated health benefits, as defined in Ark. Code Ann. §23-79-802(2) shall provide to the policyholder and to each certificate holder of the plan a written notice that the health benefits plan, selected by the policyholder, does not contain all state mandated benefits. This written notice shall be provided no later than thirty (30) days after the certificate holder enrolls in the plan. Such notice may be provided in a separate document, or incorporated in the application, or provided in a certificate of coverage provided to the policyholder and each certificate holder. The notice shall:

(1) List each state mandated health benefit or service which is not provided in the health benefits plan(s).

(2) Urge the policyholder and certificate holder to consult with his or her health insurance agent or the Arkansas Insurance Department Consumer Affairs or Legal Division about questions or concerns related to the nature of the state mandated health benefit which is not offered in the health benefits plan.

It shall be the duty or obligation of the health insurer, or agent, to provide the required written notice under this section to each policyholder and certificate holder.

Section 6. Failure To Provide Required Written Notice Of State Mandated Health Benefits

Every organization which fails, as a pattern or practice, to provide the written notice as required under Section Five (5) of this Rule shall be deemed to have committed a violation of the Trade Practices Act pursuant to Ark. Code Ann. §23-66-206(8) and shall be subject to the penalties and provisions governing violations of the Trade Practices Act in Ark. Code Ann. §23-66-210. It shall be presumed that the organization is not engaged in a trade practice violation under this Section, if it has a reasonable procedure in place and regularly provides the written notices as required under Section Five (5) of this Rule. If the organization, or agent thereof, fails to provide the written notice as required in Section Five (5) of this Rule, the policyholder or certificate holder is deemed to have selected a health benefits plan subject to each applicable state mandated health benefits or service which was not listed in the required written notice.

Section 7. Severability Provision

If any section or portion of a section of this Regulation or the application thereof to any person or circumstances is held invalid by a court, the remainder of this Regulation or the application of its provisions to other persons or circumstances shall not be affected.

Mike Pickens
Insurance Commissioner

Date