

RULE AND REGULATION 80

NOTICES OF NON-RENEWAL OF EMPLOYER GROUP HEALTH INSURANCE DUE TO NON-PAYMENT OF PREMIUM

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Section 1. Purpose

The purpose of this Regulation is to implement Ark. Code Ann. §23-86-311(b)(7) and to prescribe the form, manner and timing of written notices provided by health insurance issuers that nonrenew or discontinue health insurance coverage offered in connection with a group health plan because the plan sponsor has failed to pay premiums under Ark. Code Ann. §23-86-311(b)(1).

Section 2. Authority

This Rule is issued pursuant to the authority vested in the Insurance Commissioner in Ark. Code Ann. §§23-61-108 and 23-86-311(b)(7)(B).

Section 3. Applicability and Scope

This regulation shall apply to health insurance issuers offering or providing group health plans, issued in Arkansas, subject to the "Arkansas Health Insurance Portability and Accountability Act of 1997," Ark Code Ann. §§23-86-301 *et seq.*

4. Effective Date

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

5. Definitions

a. "Group Health Insurance Coverage" or "Group Health Insurance Policy" means health insurance coverage offered in connection with a group health plan.

b. "Group Health Plan" means an employee welfare benefit plan to the extent that the plan provides medical care, including items and services paid for as medical care, to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement or otherwise.

c. “Health Insurance Coverage” means benefits consisting of medical care, provided directly, through insurance or reimbursement or otherwise and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

d. “Health Insurance Issuer” or “Issuer” means an insurance company, insurance service, or insurance organization, including a health maintenance organization, which is licensed to engage in the business of insurance in a state and is subject to Arkansas law which regulates insurance.

e. “Health Maintenance Organization” means:

(1) A federally qualified health maintenance organization as defined in section 1301(a) of the Public Health Service Act, 42 U.S.C. § 300e(a);

(2) An organization recognized under state law as a health maintenance organization; or

(3) A similar organization regulated under state law for solvency in the same manner and to the same extent as a health maintenance organization.

f. “Plan Sponsor” means:

(1) The employer in the case of an employee benefit plan established or maintained by a single employer;

(2) The employee organization in the case of a plan established or maintained by an employee organization; or

(3) In the case of a plan established or maintained by two or more employers or jointly by one or more employer and one or more employee organization, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

Where a health insurance issuer provides health insurance coverage for the group health plan, the plan sponsor is the policyholder.

g. “Medical Care” means amounts paid for or services provided for:

(1) The diagnosis, cure, mitigation, treatment or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body; or

(2) The amounts paid for transportation primarily for and essential to medical care.

Section 6. Required Written Notice

Every health insurance issuer, which nonrenews or discontinues a group health insurance policy because the policyholder failed to pay premiums in accordance with the terms of the policy, shall deliver a written notice of the policy termination that meets the following standards:

a. The notice shall be sent to each employee and COBRA beneficiary covered by the policy;

b. The issuer shall deliver the notice to the last known address of each notice recipient that the issuer maintains in its records;

c. If the issuer and the notice recipient have agreed to transactions by electronic means,

the notice may be sent electronically;

d. The notice shall clearly state the termination date of the policy. A certificate of creditable coverage containing the information required by Ark. Code Ann. §23-86-304(e)(1)(B) shall satisfy this standard;

e. The termination date stated in the notice shall be the date premium was due, if the premium has not been paid, provided the termination date expressed in the notice shall not pre-date the date the notice is sent by more than 47 days, unless the issuer can demonstrate that the recipients of the notice shall receive it with no fewer than fourteen (14) days to acquire alternative coverage without loss of creditable coverage.

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

11/3/03

Date