

# Arkansas Insurance Department

Mike Huckabee  
Governor



Julie Benafield Bowman  
Commissioner

December 18, 2006

BULLETIN NO.: 8 - 2006

TO: ALL ACCIDENT & HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, HOSPITAL MEDICAL SERVICE CORPORATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, TRADE ORGANIZATIONS AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: IMPLEMENTATION OF ACT 2293 OF 2005 FOR CLOSED BLOCKS OF BUSINESS ON JANUARY 1, 2007

The Arkansas Insurance Department ("Department") issues this bulletin to advise health insurance carriers conducting business in this state of the Department's interpretation of compliance requirements imposed by Act 2293 of 2005 (the "Closed Blocks Act," now codified at Ark. Code Ann. § 23-79-153) related to a health insurer's closing of blocks of business on and after January 1, 2007.

In addition, the Arkansas Insurance Department reminds carriers that any business of the carrier that the carrier has closed or is closed because of the presumptions set out in subsection (c)(1) of Ark. Code Ann. § 23-79-153 must be brought into compliance with the terms of the Closed Blocks Act no later than January 1, 2007. Please see Ark. Code Ann. § 23-79-153(g).

This bulletin advises health insurers to determine the applicability of the Closed Blocks Act to the blocks of business the health insurer maintains or has maintained. Under the Closed Blocks Act, a "block of business" means "a particular policy form or contract providing health insurance coverage that includes distinct benefits, services, and terms issued by a carrier to one (1) or more individuals." Ark. Code Ann. § 23-79-153(a)(1). The Department interprets the Closed Blocks Act therefore to apply to policies or contracts covering the individual and members of that individual's family and subject to the rate filing and approval requirements of Ark. Code Ann. § 23-79-109(a)(1)(A). Individual health insurance coverage does not include blanket or group health insurance coverage as defined in Ark. Code Ann. §§ 23-86-101 and 23-86-106.

Ark. Code Ann. § 23-79-153(a)(2) defines "carriers" subject to the Closed Blocks Act to mean any entity that contracts or offers to contract to provide health insurance coverage, including but not limited to, an insurance company, a health maintenance organization, or a hospital medical organization. In addition, under Ark. Code Ann. § 23-79-153(a)(4)(A), "health insurance coverage" is defined to mean benefits consisting of medical, pharmaceutical, surgical, hospitalization, or similar goods or services for the purpose of preventing, alleviating, curing, or healing human illness provided directly or indirectly through insurance, reimbursement, or otherwise, including items and services paid for under any policy, certificate, or agreement offered by a carrier. It does not include policies or certificates covering only: (i) Accident, credit, disability income, long-term care, hospital indemnity, specified disease, or other limited benefit health insurance; (ii) Automobile medical payment insurance; (iii) A Medicare supplemental policy as defined in 42 U.S.C. § 1395ss(g)(1) as it existed on January 1, 2005; or (iv) Claims under the

Workers' Compensation Law, Ark. Code Ann. §§ 11-9-101, *et seq.*, or the Public Employee Workers' Compensation Act, Ark. Code Ann. §§ 21-5-601, *et seq.*

#### I. Closed Block Business- Presumption, Determination and Notification

Unless a carrier presents evidence satisfactory to the Commissioner to the contrary as set forth in standards announced in this bulletin, a block of business shall be presumed to be a closed block of business if the block of business has been in existence for more than twenty-four (24) months, and for a period of twenty-four (24) months, the number of contracts for the block of business has decreased by twelve percent (12%) or more; or the block of business has less than one hundred (100) contracts in the State of Arkansas. The fact that a block of business does not meet one (1) of the presumptions above shall not preclude a determination by the Commissioner that it is a closed block of business.

A carrier may present evidence to the Commissioner to rebut a presumption or to overturn a determination by the Commissioner that a block of business is a closed block of business.

A carrier shall notify the Commissioner in writing within thirty (30) calendar days of: (1) its decision to close a block of business; or (2) any block of business falling within one (1) of the above presumptions.

The notification shall be directed to:

Arkansas Insurance Department  
c/o Life and Health Division  
1200 West Third Street  
Little Rock, AR 72201-1904

Once a notice is provided to the Commissioner as required by this bulletin, the carrier shall provide to the Commissioner any additional information requested by the Commissioner that pertains to the closing of the block of business within fifteen (15) business days of the Commissioner's request.

#### II. Rate Filing Requirements

Once a block of business becomes a closed block of business, the carrier must pool the experience of that closed block of business with all its blocks of individual comprehensive major medical business in Arkansas that are closed, for the purpose of determining the percentage premium rate increase of any contract, policy, or certificate of coverage within the closed block of business.

The data to be pooled should be associated with Arkansas policies only, except where lack of credible volume requires incorporation of non-Arkansas data. If non-Arkansas data is used to calculate the pooled rate increase, a credibility demonstration is required.

For purposes of the above requirements, a rate penalty or surcharge does not include adjustments resulting from rating factors used by carriers in determining premium rates and indicated or allowed by regulation or by the insurance contract.

There shall be an annual rate filing for all pooled closed blocks of business. This filing shall exhibit at least three (3) years of pooled historical experience.

The percentage rate increase justified by the experience of the combined pool shall be applied to every policy in the combined pool. The rate filing shall include the schedule of implementation of such percentage rate increase.

### III. Record Retention

A carrier shall preserve for a period of not less than five (5) years, in an identified location that is readily accessible for review by the Commissioner, all books and records relating to any action taken by the carrier to comply with the rate filing requirements announced in this Bulletin.

### IV. Prohibited Practices

No carrier shall provide false or misleading information about the active or closed status of a block of business.

No carrier shall offer or sell any contract with the purpose of evading this section.

No carrier shall impose a rate penalty or surcharge on a policy in Arkansas that is within a closed block of business beyond that which reflects the experience of the combined pool.

### V. Pooling/Rate Restrictions Exemption

The Commissioner may exempt a carrier from complying with the pooling and rate restrictions in this Bulletin pertaining to a closed block of business if the carrier petitions the Commissioner for an exemption and the carrier demonstrates: (1) compliance with the provisions of the rate filing requirements announced in this bulletin will cause the carrier to be subject to administrative supervision by the Commissioner pursuant to Ark. Code Ann. §§ 23-68-101, *et seq.*; or (2) the carrier purchased the closed block of business from an insurance company that was under administrative supervision or regulatory oversight by the Commissioner.

Any questions with respect to this Bulletin should be directed to the Department's Life and Health Division at 501-371-2800 or [insurance.LnH@arkansas.gov](mailto:insurance.LnH@arkansas.gov).

(signed by Julie Benafield Bowman)

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JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS