



Date: March 14, 2014

From: Gary Cohen, Director, Center for Consumer Information & Insurance Oversight

Title: Insurance Standards Bulletin Series -- INFORMATION

Subject: Draft Notices When Discontinuing or Renewing a Product in the Group or Individual Market

I. Purpose

Contemporaneously with the issuance of this bulletin, CMS is releasing a proposed rule titled, “Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond.” This bulletin provides draft notices that would be required to be used if the proposed rule is finalized. Comments may be submitted on the draft notices as described in section III of this bulletin.

II. Background

The Public Health Service (PHS) Act requires health insurance issuers offering health insurance coverage in the group and individual markets, through or outside of the Marketplaces, to guarantee the renewal of coverage unless at least one of several listed exceptions applies. This requirement applies to both grandfathered and non-grandfathered health plans. (See PHS Act sections 2703 and 2742 and regulations at 45 CFR §§ 146.152, 147.106 and 148.122).

One exception to the guaranteed renewability requirement permits an issuer to cease offering a particular product in the large group, small group, or individual market and to discontinue existing blocks of business with respect to that product (“product withdrawal”). This may be done, in accordance with applicable State law, as long as the issuer meets all of the following requirements:

- Provide written notice to each plan sponsor or individual provided that particular product (and to all participants and beneficiaries covered under such coverage) at least 90 calendar days before the date the coverage will be discontinued;

- Offer to each plan sponsor or individual provided that particular product the option to purchase, on a guaranteed availability basis, any other coverage offered by the issuer in that market; and
- Act uniformly without regard to the claims experience or any health status-related factor relating to individuals when discontinuing that product and offering the option of other coverage.

Additionally, the PHS Act contains an exception to the guaranteed renewability requirements for “uniform modifications of coverage.” These provisions permit an issuer to modify the health insurance coverage for a product offered to a group health plan or an individual only at the time of coverage renewal, if the modification is consistent with State law and effectively uniformly for all group health plans or individuals with that product. (See PHS Act section 2703(d) and regulations at 45 CFR §§ 146.152(f) and 147.106(e) (group market) and PHS Act section 2742(d) and §148.122(g) (individual market)).

III. Standard Notices and Request for Comment

As indicated earlier, contemporaneously with the issuance of this bulletin, CMS is releasing a proposed rule titled, “Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond.” In the proposed rule, we propose that, in order for an issuer discontinuing a product to satisfy the 90-day notice requirement under the PHS Act, the issuer must provide notice “in a form and manner specified by the Secretary.” We also propose that an issuer renewing health insurance coverage must provide notice “in a form and manner specified by the Secretary.”

Included with this bulletin are draft notices specified by the Secretary for these purposes when the proposed rule is finalized. These notices could not be modified in any way by health insurance issuers and would be required to be used to satisfy the proposed notice requirements. Issuers could include a cover letter with the notices providing additional information, such as issuer contact information. Attachment 1 is the standard discontinuance notice for the individual market and for employees in the group market. Attachment 2 the standard discontinuance notice for employers in the group market. Attachment 3 is the standard renewal notice for the individual market. Attachment 4 is the standard renewal notice for the group market (which needs only to be sent to employers).

States would have the option of developing State-required notices for issuers to use in place of the Federal notices. State notices must be reviewed and approved by CMS before they may be used by issuers in the State. Once the State notices are approved for use, they cannot be modified in any way by issuers.

We are requesting comments on the draft notices contained in this bulletin. Comments must be submitted by April 18, 2014 and may be submitted electronically to: marketreform@cms.hhs.gov.

Where to get more information:

The regulations cited in this bulletin are found in Parts 146, 147, and 148 of Title 45 of the Code of Federal Regulations (45 CFR §§ 146.152, 147.106 and 148.122). Information about on private health insurance is also available on the CMS website at www.cms.gov/ccio and information on health reform is available at www.HealthCare.gov.

If you have any questions regarding the guaranteed renewability provisions in this bulletin, please e-mail CCIIO at marketreform@cms.hhs.gov.

Attachment 1

This notice must be used when a health insurance issuer elects to discontinue offering a particular health insurance product in the individual market, and for notification of employees when discontinuing coverage in the small group or large group market in a State, consistent with 45 CFR 146.152, 147.106 and 148.122, as applicable.

Important Notice: You Need to Choose a New Health Policy

We Are Discontinuing Your Policy

Dear Member,

We are writing to inform you that we have decided your health insurance policy will not be available after your current policy year expires. As a result, your current policy cannot be renewed. Although we will discontinue your policy at its expiration date, you can enroll in other policies and potentially qualify for financial assistance.

What Do I Need To Do?

To ensure that you do not have a break in coverage, **you must enroll in a new policy on or before the 15th day of the last month of your current policy.** If you wait until after the 15th day of the last month to enroll in a new policy, you may experience a break in coverage of one month or more.

How Do I Choose A New Policy?

You have options and rights for getting quality, affordable health insurance:

- [You can shop for individual market coverage offered through the Health Insurance Marketplace, where all policies meet certain standards to guarantee health care security, and where no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.]¹
- [You can also get new health insurance outside the Marketplace.] You can buy a different individual market plan from us, or from another health insurance company in your state that serves your area. These plans guarantee certain protections, such as your ability to buy a plan even if you have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

¹ The bracketed language does not apply to the U.S. territories that do not have a Marketplace.

You should review your options as soon as possible, because you may have to buy your coverage within a limited time period. It is important to maintain health insurance coverage, which may be required in order to comply with Federal law. If you can afford health insurance but decide to go without it for three months or more in a year, you may have to pay a fee when you file your taxes.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596 or **TTY: 1-855-889-4325**.

If you have questions, please contact us.

Attachment 2

This notice must be used for notification of employers when a health insurance issuer elects to discontinue offering a particular health insurance product in the small group or large group market in a State, consistent with 45 CFR 146.152 and 147.106, as applicable.

<p style="text-align: center;">Important Notice: <u>You Need to Choose a New Health Policy</u> We Are Discontinuing Your Policy</p>
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Dear Member,

We are writing to inform you that we have decided that your health insurance policy will not be available after your current policy year expires. As a result, your current policy cannot be renewed. Although we will discontinue your policy at its expiration date, you can enroll in any of our other policies for which you are eligible.

What Do I Need To Do?

To ensure that your enrollees do not have a break in coverage, **you must enroll in a new policy on or before the 15th day of the last month of your current policy.** If you wait until after the 15th day of the last month to enroll in a new policy, your enrollees may experience a break in coverage of one month or more.

How Do I Choose A New Policy?

You have options and rights for getting quality, affordable health insurance:

- [You may shop in the Small Business Options Program (SHOP) Marketplace, where all policies meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits to help you afford health insurance coverage through the SHOP.]²
- [You can also get new health insurance outside the Marketplace.] You can buy a different plan from us, or you can buy a different plan from any other health insurance company in your state that serves your area. These plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, tax credits are not available outside the Marketplace.]

How Can I Learn More?

² The bracketed language does not apply to the U.S. territories that do not have a Marketplace.

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Attachment 3

This notice must be used when a health insurance issuer elects to renew the health insurance coverage for products offered in the individual market in a State, consistent with 45 CFR 147.106 and 148.122, as applicable.

Important Notice: Your Health Policy Is Being Renewed
You Don't Need to Take Any Action to Keep Your Coverage

Dear Member,

We are writing to inform you that your policy is being renewed. At the end of your current policy year, we will automatically enroll you in the same policy. We may have made some modifications to the coverage you had last year. Please review the Summary of Benefits and Coverage for your upcoming plan year to check for any changes. You may wish to choose a different policy, and may qualify for financial assistance.

What Do I Need To Do?

There is nothing you are required to do. At the end of your current policy year, we will automatically enroll you in the same policy.

What If I Want To Choose A Different Policy?

If you wish to choose a different policy, simply enroll in the coverage of your preference. To ensure that you do not have a break in coverage, you must enroll in a new policy on or before the 15th day of the last month of your current policy. You have options and rights for getting quality, affordable health insurance:

- [You may shop in the Health Insurance Marketplace, where all policies meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.]³
- [You can also get new health insurance outside the Marketplace.] These plans guarantee certain protections, such as your ability to buy a plan even if you have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

³ The bracketed language does not apply to the U.S. territories that do not have a Marketplace.

- Since your current coverage is not ending, you can only enroll in a new plan during an open enrollment period or if you qualify for a special enrollment period. Go to [Healthcare.gov](https://www.healthcare.gov) or call 1-800-318-2596 to learn the dates of the next open enrollment period.
- [If you are enrolled in a plan through a Marketplace, you will receive a renewal notice from your Marketplace with additional information about your Marketplace renewals.]

If you want to buy a new policy, you should review your options as soon as possible, because you may have to buy your coverage within a limited time period. It is important to maintain health insurance coverage in order to comply with applicable State and Federal law. If you can afford health insurance but decide to go without it for three months or more in a year, you may have to pay a fee when you file your taxes.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit [HealthCare.gov](https://www.healthcare.gov) or call 1-800-318-2596 or **TTY: 1-855-889-4325**.

If you have questions, please contact us.

Attachment 4

This notice must be used when a health insurance issuer elects to renew the health insurance coverage for products offered in the small group or large group market in a State, consistent with 45 CFR 146.152 and 147.106, as applicable.

Important Notice: Your Health Policy Is Being Renewed
You Don't Need to Take Any Action to Keep Your Coverage

Dear Member,

We are writing to inform you that your policy is being renewed. At the end of your current policy year, we will automatically enroll you in the same policy. We may have made some modifications to the coverage you had last year. Please review the Summary of Benefits and Coverage for your upcoming plan year to check for any changes. If you wish to choose a different policy, you may choose to enroll in one of our other policies or any other coverage offered in the State for which you are eligible.

What Do I Need To Do?

There is nothing you are required to do. At the end of your current policy year, we will automatically enroll you in the same policy.

What If I Want To Choose A Different Policy?

If you wish to choose a different policy, simply enroll in the coverage of your preference. To ensure that your enrollees do not have a break in coverage, you must enroll in a new policy on or before the 15th day of the last month of your current policy. You have options and rights for getting quality, affordable health insurance:

- [You may shop in the Small Business Health Options Program (SHOP) Marketplace, where all policies meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits to help you afford health insurance coverage through the Marketplace.]⁴
- [You can also get new health insurance outside the Marketplace.] These plans guarantee certain protections, such as your ability to buy a plan even if you or your enrollees have a pre-existing condition. [However, tax credits are not available outside the Marketplace.]

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You should review your options as soon as possible, because you may have to buy your coverage within a limited time period.

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