

BULLETIN

To: **Small Group Carriers**

Re: **Small Employer Groups: Revised Rules for Eligibility and Group Size**

Date: **June 14, 2000**

Bulletin: **REVISED Life and Health 00-12**

In response to numerous questions that have been raised since the issuance of Bulletin Life and Health 00-12, the Administration is issuing this Revised Bulletin 00-12.

This Bulletin contains a summary of three important changes in Maryland law governing small employer group health insurance, as enacted by Chapter 400 (House Bill 649) of the Acts of the General Assembly of 2000.

Persons subject to regulation under Chapter 400 must read the legislation in its entirety.

A complete copy of the *enrolled bill* is available on the website of the Maryland General Assembly: www.mlis.state.md.us.

1. *Eligibility of Self-employed Individuals*

Section 15-1203(c)(1) of the Insurance Article is amended to require the self-employed person to "work and reside" in Maryland. Previously the law required the self-employed person to live, work *or* reside in Maryland.

The change described above is a restriction on the definition of self-employed and will reduce the number of persons who qualify as self-employed. Section 3 of Chapter 400 protects persons who once met the definition of self-employed and now cease to meet it due to the change in the definition. Those protected persons may renew coverage for as long as they continue to meet the definition in effect on the date they originally applied for the coverage.

2. *Determination of Group Size*

Section 15-1203(b)(1)(i) of the Insurance Article is amended to require carriers to determine if the small employer met the definition of small employer based on the preceding calendar quarter, instead of the preceding calendar year. Also, §15-1203(b)(3)(ii)(1) and §15-1203(f) of the Insurance Article are deleted. As a result, when a carrier counts eligible employees to determine the group size, the carrier no longer excludes employees who are covered under a public or private health insurance plan or other health benefit arrangement.

Some employer groups that exceed 50 full-time employees previously were counted as small employer groups. Those employer groups now have the option to renew the comprehensive standard health benefit plan or to purchase coverage as a large employer group.

Section 3 of Chapter 400 protects employers who previously met the definition of small employer and who cease being small employers based solely on the new definition. Those protected employers may renew coverage for as long as they continue to meet the definition in effect on the date they applied for the coverage.

3. *Minimum Participation*

Section 15-1206 (c)(3) is amended to alter the rule for application of the minimum participation requirement, which a carrier may impose but which may be no more than 75%. Under the new rule, when a carrier counts eligible employees to determine whether the minimum participation requirement is met, the carrier *may not consider* as eligible employees those who have:

- Group spousal coverage under a public or private plan of health insurance
- A health benefit arrangement through another employer that provides benefits similar to or exceeding the benefits under the standard plan, including Medicare, Medicaid, and Champus.

The carrier *shall consider*, as eligible employees, all members of the employer group who have purchased the standard plan.

Under the previous rule, members of an employer group could split into sub-groups, with each sub-group purchasing from a different carrier. All but one eligible employee could purchase from one carrier, leaving the one eligible employee to purchase from a second carrier. The second carrier would be required to accept the one eligible employee (a one-life group) because it could not consider as eligible any other employee who had other coverage, even if the other coverage was the standard plan issued by another carrier.

For example:

Employer A has 5 full-time employees. Four of the employees have health benefit plans through their spouses. The fifth employee wishes to purchase the standard plan. Under the previous rule and the new rule, the fifth employee (a one-life group) represents 100% participation, and a small group carrier must issue its plan to the fifth employee.

Employer B has 5 full-time employees. Four of the employees have purchased the standard plan from one carrier. The remaining employee wishes to purchase the standard plan from a second carrier. Under the new rule, the second carrier applies its participation requirement based on all five lives. The employee who wishes to purchase from the second carrier represents 20% of the eligible employees in the group. The second carrier need not issue its plan to the employee unless the carrier uniformly applies a 20% participation requirement to all five-life groups in accordance with §15-1209(d) of the Insurance Article.

Section 3 of Chapter 400 protects employer groups who met the minimum participation requirement under the previous rule, but not the new rule, *e.g.*, Employer B in the example above. Those protected employer groups may renew coverage for as long as they continue to meet the participation requirements that were in effect on the date they applied for the coverage.

If you have any questions on this matter please call (410) 468-2170 and mention this bulletin by bulletin number.

Donna B. Imhoff
Associate Commissioner