

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



BETH SAMMIS, Ph.D.
Acting Commissioner

KAREN STAKEM HORNIG
Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
1-800-492-6116 TTY: 1-800-735-2258
www.mdinsurance.state.md.us

BULLETIN 10-28

Date: September 17, 2010

To: Insurers, Nonprofit Health Service Plans, and Health Maintenance Organizations
Participating in the Small Employer Market in Maryland

Re: Application of Minimum Participation Requirements
Impact of the Patient Protection and Affordable Care Act (PPACA)-Coverage of
Children to Age 26

The Patient Protection and Affordable Care Act ("PPACA") provides that young adults may remain covered under their parents' health care plan until age 26 even if the young adult no longer lives with his or her parents, works full-time and is not a dependent on a parent's tax return. In addition, young adults previously terminated from a parent's plan will qualify for an open enrollment period to join their parents' family plan or policy beginning on or after September 23, 2010. It has been brought to the Maryland Insurance Administration's attention that the impact of this new protection for young adults may cause certain small employers to lose their small group health plan coverage due to the small employer inability to meet the participation requirements.

In the small employer market, carriers are permitted to impose reasonable minimum participation requirements, not to exceed 75%. When a carrier establishes its participation requirements, those requirements are not permitted to be more restrictive than the rules described in §15-1206(c), but may be more lenient than those set forth in the law. In applying minimum participation requirements to determine if the applicable percentage of participation is met, a carrier following the minimum rules of §15-1206(c), considers all eligible employees of the small employer, except those eligible employees who have group spousal coverage. A young adult employee under the age of 26 who chooses to enroll in his or her parents' group coverage still meets the definition of "eligible employee" under the law. As a result, small employers with young workforces may no longer be able to meet the minimum participation requirements.

The Maryland Insurance Administration believes it is important that small employers be allowed to continue their small group coverage and anticipates that a change to the law will be enacted to provide protection for these small employers. Carriers are encouraged to not count those young

adults who have group dependent coverage under a parent's health benefit plan with another employer as "eligible employees" when applying the minimum participation requirements for the contract. This application of the participation requirements would be permissible under Maryland law, since it exceeds the minimum requirements of §15-1206(c) of the Insurance Article. It is also protective of small employers who need to maintain their small group health benefit plans for their other employees.

Questions about this bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

Signature on file with original

Brenda A. Wilson
Associate Commissioner
Life and Health Section