

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 10-31

Date: September 28, 2010

To: Insurers, Nonprofit Health Service Plans, and Health Maintenance Organizations
("Carriers") Offering Individual Health Benefit Plans in Maryland

Re: Medical Underwriting in the Individual Market for Family Health Benefit Plans

The purpose of this bulletin is to provide guidance to carriers offering family coverage under individual health benefit plans in Maryland. This bulletin does NOT address the subject of "child only" individual health benefit plans. The subject of "child only" individual health benefit plans will be addressed at a later date.

Section 15-137 of the Insurance Article gave the Maryland Insurance Administration the authority to enforce the provisions of the federal Patient Protection and Affordable Care Act ("PPACA"). Carriers that issue individual health benefit plans to families in Maryland are prohibited by PPACA from excluding children under the age of 19 from the family coverage contract, if the family coverage contract is issued on or after September 23, 2010, or otherwise meets the definition of a *non-grandfathered health plan* under PPACA for policy years that begin on or after September 23, 2010.

Despite the above prohibition, carriers are permitted to underwrite new applicants for family coverage contracts as described below:

1. Carriers are permitted to underwrite individuals who are age 19 and older who are applying for family coverage and to reject such individuals from coverage or to reject the entire family from coverage, if the individuals who are age 19 or older do not meet the carrier's medical underwriting requirements.
2. Carriers are permitted to underwrite individuals who are younger than age 19, but only for the purpose of rating such individuals. If a carrier is issuing family coverage individual health benefit plans in Maryland, family coverage may not be denied for a child under age 19 based on medical underwriting of the child who is younger than age 19. The carrier may charge higher premium rates for a child under the age of 19 who fails to pass the carrier's medical underwriting requirements, provided such rates have been approved in advance by the Maryland Insurance Administration.

3. Carriers, who are concerned that families with children under the age of 19 will select against the carrier, may include in their premium rate filing a surcharge for those applicants who were previously covered by the carrier, dropped their coverage, and then reapplied for coverage with the same carrier within 12 months of dropping the prior coverage.

The United States Department of Health and Human Services (“HHS”) has also provided updated guidance on this issue on September 24, 2010. The HHS guidance is available in a question and answer format on the HHS website at www.hhs.gov/ociio/regulations/children19/.

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