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BULLETIN 13-31

Date: December 13, 2013

To: Insurers, Nonprofit Health Service Plans, and Health Maintenance Organizations Offering Health Benefit Plans in the Small Group Market in Maryland (“Carriers”) and Producers Licensed to Sell Health Insurance Products

Re: Clarification of Small Group Rating Rules for Family Coverage

The purpose of this Bulletin is to clarify the rating methodology options available in Maryland to calculate premiums for employees covered under a non-grandfathered health benefit plan purchased through a small employer effective on or after January 1, 2014.

Final market rules promulgated under the federal Affordable Care Act and codified at 45 C.F.R. § 147.102(c) require that, with respect to family health insurance coverage, rating variations for age and tobacco use must be applied based on the portion of the premium attributable to each covered family member. Those regulations establish a per-member rating methodology pursuant to which the total premium for family coverage must be determined by summing the premiums for each individual family member. For family members under age 21, the premiums for no more than the three oldest covered children must be taken into account in determining the total family premium. In the small group market, the total premium charged to the group is determined by summing the premiums of covered participants and beneficiaries in accordance with this per-member rating methodology. The rules further provide, however, that they do not preclude a state from requiring a carrier to offer, or a carrier from voluntarily offering, premiums to a group that are based on average enrollee amounts, provided that the total group premium is the same total amount derived using the per-member rating methodology. Such an averaging methodology is permissible under Maryland law.

On December 2, 2013, the U.S. Department of Health & Human Services (HHS) issued a Notice of Benefit and Payment Parameters for 2015, 78 Fed. Reg. 72322 (to be codified at 45 CFR Parts 144, 147, 153). In the preamble to the proposed rule, HHS “recognized that in the small group market it is common industry billing practice to charge an employer a uniform premium for a given family composition by adding the per-member rates and dividing by the total number of employees covered under the employer’s health insurance plan,” and reiterated

that “nothing prevents [a carrier] from converting per-member rates into average enrollee premium amounts (calculated composite premiums), provided that the total group premium is the same total amount derived in accordance with the process established by the regulations.” *Id.* at 72327. HHS proposed to add a provision at § 147.102(c)(3) clarifying that if an issuer offers a composite premium calculated when the employer obtains or renews coverage, the carrier must ensure that such amount does not vary for any plan participant or beneficiary during the plan year with respect to the particular plan involved. Under this proposal, a carrier would be required to accept the group’s composite premium, calculated based on applicable employee enrollment at the beginning of the plan year, as the applicable premium rate for any new individual who enrolls in the plan during the plan year. HHS encouraged carriers to voluntarily adopt this approach for plan years beginning in 2014. This Bulletin clarifies that the approach proposed by HHS is permissible under Maryland law.

HHS also noted that it is considering establishing for 2015 a uniform tiered-composite rating structure that would apply market wide, unless a state required and HHS approved an alternative tiered-composite rating methodology. Under the methodology being considered, a carrier issuing a small group plan offering composite rating would calculate the composite premium for different tiers of enrollees covered under the employer’s plan, with children under age 21 in a different tier than adult enrollees. For example, in a two-tier structure, one composite premium would be calculated for covered adults (employees and adult dependents) and another composite premium would be calculated for covered children. Alternatively, in a three-tier structure, there would be one composite premium for covered employees, a second composite premium for covered adult dependents, and a third composite premium for covered children. The premium for a given family composition would be determined by summing the applicable tiered-composite rates. *Id.* at 72328. This Bulletin clarifies that this approach, too, is permissible under Maryland law, provided that the total group premium is the same total amount derived using the per-member rating methodology.

Any question about this Bulletin may be directed to Sarah Li, Chief Actuary, Office of the Chief Actuary at sarah.li@maryland.gov.

Signature on original

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