

Bulletin 97-1

Small Employer Maternity Coverage Requirements

The Department of Insurance has been asked to clarify its position regarding the guaranteed availability requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Maternity Coverage

Specifically, the question has been asked whether carriers must offer maternity coverage to all small employers. It is our understanding that carriers offering coverage in the small employer market must offer maternity coverage to small employers of all group sizes.

HIPAA does not permit issuers to establish a participation requirement that exceeds the number of eligible individuals or employees of an employer. State law also requires any participation requirement to be applied uniformly to all small employers of a given size.

Contract provisions that condition coverage or benefits, including maternity benefits, on the size of a small employer will not be permitted under HIPAA and state law.

The law does not require all small employers to provide maternity coverage and it does not prohibit issuers from also offering insurance without maternity coverage.

Effective Date

The department points out that the effective date of Senate bill 60 is May 1, 1997. The changes required by state law will be effective before HIPAA in some cases. For instance, the requirements regarding pre-existing condition exclusions are effective May 1, 1997 for small employer coverage without regard to the plan year of the employer.

DATED this 11th day of June, 1997.

Insurance Commissioner

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