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BULLETIN 2006-2

Health Insurance Portability Provisions

The purpose of this bulletin is to clarify that coverage offered through the Ryan White program satisfies the regulatory definition of a "public health plan", as allowed under 45 CFR 146.113(a)(1) and should be counted as creditable coverage as required by Utah Code Annotated (UCA) §§ 31A-1-301(32), 31A-22-605.1(4) and Utah Administrative Rule R590-233-4.

Utah defines creditable coverage in UCA § 31A-1-301(32) which states, "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936. Federal rules adopted December 30, 2004 define creditable coverage as:

- (i) A group health plan as defined in § 146.145(a).
- (ii) Health insurance coverage as defined in § 144.103 of this chapter (whether or not the entity offering the coverage is subject to the requirements of this part and 45 CFR part 148 and without regard to whether the coverage is offered in the group market, the individual market, or otherwise).
- (iii) Part A or B of Title XVIII of the Social Security Act (Medicare).
- (iv) Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under section 1928 of the Social Security Act (the program for distribution of pediatric vaccines).
- (v) Title 10 U.S.C. Chapter 55 (medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Title 10 U.S.C. Chapter 55, *uniformed services* means the armed forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service).
- (vi) A medical care program of the Indian Health Service or of a tribal organization.
- (vii) A State health benefits risk pool. For purposes of this section, a *State health benefits risk pool* means:
 - (A) An organization qualifying under section 501(c)(26) of the Internal Revenue Code;
 - (B) A qualified high risk pool described in section 2744(c)(2) of the PHS Act; or
 - (C) Any other arrangement sponsored by a State, the membership composition of which is specified by the State and which is established and maintained primarily to provide health coverage for individuals who are residents of such State and who, by reason of the existence or history of a medical condition—
 - (1) Are unable to acquire medical care coverage for such condition through insurance or from an HMO, or
 - (2) Are able to acquire such coverage only at a rate, which is substantially in excess of the rate for such coverage through the membership organization.
- (viii) A health plan offered under Title 5 U.S.C. Chapter 89 (the Federal Employees Health Benefits Program).
- (ix) A public health plan. For purposes of this section, a *public health plan* means any plan established or maintained by a State, the U.S. government, a foreign country, or any political subdivision of a State, the U.S. government, or a foreign country that provides health coverage to individuals who are enrolled in the plan.
- (x) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).
- (xi) Title XXI of the Social Security Act (State Children's Health Insurance Program).

DATED this 15th day of May 2006.

D. Kent Michie
Insurance Commissioner