

Effective 5/13/2014

31A-22-721 A health benefit plan for a plan sponsor -- Discontinuance and nonrenewal.

- (1) Except as otherwise provided in this section, a health benefit plan for a plan sponsor is renewable and continues in force:
 - (a) with respect to all eligible employees and dependents; and
 - (b) at the option of the plan sponsor.
- (2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed for a network plan, if:
 - (a) there is no longer any enrollee under the group health plan who lives, resides, or works in:
 - (i) the service area of the insurer; or
 - (ii) the area for which the insurer is authorized to do business; or
 - (b) for coverage made available in the small or large employer market only through an association, if:
 - (i) the employer's membership in the association ceases; and
 - (ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual.
- (3) A health benefit plan for a plan sponsor may be discontinued if:
 - (a) a condition described in Subsection (2) exists;
 - (b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;
 - (c) the plan sponsor:
 - (i) performs an act or practice that constitutes fraud; or
 - (ii) makes an intentional misrepresentation of material fact under the terms of the coverage;
 - (d) the insurer:
 - (i) elects to discontinue offering a particular health benefit product delivered or issued for delivery in this state;
 - (ii)
 - (A) provides notice of the discontinuation in writing:
 - (I) to each plan sponsor, employee, and dependent of a plan sponsor or employee; and
 - (II) at least 90 days before the date the coverage will be discontinued;
 - (B) provides notice of the discontinuation in writing:
 - (I) to the commissioner; and
 - (II) at least three working days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of plan sponsors or employees;
 - (C) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase any other health benefit products currently being offered:
 - (I) by the insurer in the market; or
 - (II) in the case of a large employer, any other health benefit plan currently being offered in that market; and
 - (D) in exercising the option to discontinue that product and in offering the option of coverage in this section, the insurer acts uniformly without regard to:
 - (I) the claims experience of a plan sponsor;
 - (II) any health status-related factor relating to any covered participant or beneficiary; or
 - (III) any health status-related factor relating to a new participant or beneficiary who may become eligible for coverage; or
 - (e) the insurer:
 - (i) elects to discontinue all of the insurer's health benefit plans:
 - (A) in the small employer market; or

- (B) the large employer market; or
- (C) both the small and large employer markets; and
- (ii)
 - (A) provides notice of the discontinuance in writing:
 - (I) to each plan sponsor, employee, or dependent of a plan sponsor or an employee; and
 - (II) at least 180 days before the date the coverage will be discontinued;
 - (B) provides notice of the discontinuation in writing:
 - (I) to the commissioner in each state in which an affected insured individual is known to reside; and
 - (II) at least 30 business days prior to the date the notice is sent to the affected plan sponsors, employees, and dependents of a plan sponsor or employee;
 - (C) discontinues and nonrenews all plans issued or delivered for issuance in the market; and
 - (D) provides a plan of orderly withdrawal as required by Section 31A-4-115.
- (4) A large employer health benefit plan may be discontinued or nonrenewed:
 - (a) if a condition described in Subsection (2) exists; or
 - (b) for noncompliance with the insurer's:
 - (i) minimum participation requirements; or
 - (ii) employer contribution requirements.
- (5) A small employer health benefit plan may be discontinued or nonrenewed:
 - (a) if a condition described in Subsection (2) exists; or
 - (b) for noncompliance with the insurer's employer contribution requirements.
- (6) A small employer health benefit plan may be nonrenewed:
 - (a) if a condition described in Subsection (2) exists; or
 - (b) for noncompliance with the insurer's minimum participation requirements.
- (7)
 - (a) Except as provided in Subsection (7)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:
 - (i) engages in an act or practice that constitutes fraud in connection with the coverage; or
 - (ii) makes an intentional misrepresentation of material fact in connection with the coverage.
 - (b) An eligible employee that is discontinued under Subsection (7)(a) may reenroll:
 - (i) 12 months after the date of discontinuance; and
 - (ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.
 - (c) At the time the eligible employee's coverage is discontinued under Subsection (7)(a), the insurer shall notify the eligible employee of the right to reenroll when coverage is discontinued.
 - (d) An eligible employee may not be discontinued under this Subsection (7) because of a fraud or misrepresentation that relates to health status.
- (8)
 - (a) Except as provided in Subsection (8)(b), an insurer that elects to discontinue offering a health benefit plan under Subsection (3)(e) shall be prohibited from writing new business in such market in this state for a period of five years beginning on the date of discontinuation of the last coverage that is discontinued.
 - (b) The commissioner may waive the prohibition under Subsection (8)(a) when the commissioner finds that waiver is in the public interest:
 - (i) to promote competition; or
 - (ii) to resolve inequity in the marketplace.

- (9) If an insurer is doing business in one established geographic service area of the state, this section applies only to the insurer's operations in that geographic service area.
- (10) An insurer may modify a health benefit plan for a plan sponsor only:
 - (a) at the time of coverage renewal; and
 - (b) if the modification is effective uniformly among all plans with a particular product or service.
- (11) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:
 - (a) with respect to coverage provided to an employer member of the association; and
 - (b) if the health benefit plan is made available by an insurer in the employer market only through:
 - (i) an association;
 - (ii) a trust; or
 - (iii) a discretionary group.
- (12)
 - (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.
 - (b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average less than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.
- (13) An insurer offering employer sponsored health benefit plans shall comply with the Health Insurance Portability and Accountability Act, 42 U.S.C. Sec. 300gg and 300gg-1.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

Amended by Chapter 425, 2014 General Session