

Effective 5/13/2014

31A-30-104 Applicability and scope.

- (1) This chapter applies to any:
 - (a) health benefit plan that provides coverage to:
 - (i) individuals;
 - (ii) small employers, except as provided in Subsection (3); or
 - (iii) both Subsections (1)(a)(i) and (ii); or
 - (b) individual conversion policy for purposes of Sections 31A-30-106.5 and 31A-30-107.5.
- (2) This chapter applies to a health benefit plan that provides coverage to small employers or individuals regardless of:
 - (a) whether the contract is issued to:
 - (i) an association, except as provided in Subsection (3);
 - (ii) a trust;
 - (iii) a discretionary group; or
 - (iv) other similar grouping; or
 - (b) the situs of delivery of the policy or contract.
- (3) This chapter does not apply to:
 - (a) short-term limited duration health insurance;
 - (b) federally funded or partially funded programs; or
 - (c) a bona fide employer association.
- (4)
 - (a) Except as provided in Subsection (4)(b), for the purposes of this chapter:
 - (i) carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier; and
 - (ii) any restrictions or limitations imposed by this chapter shall apply as if all health benefit plans delivered or issued for delivery to covered insureds in this state by the affiliated carriers were issued by one carrier.
 - (b) Upon a finding of the commissioner, an affiliated carrier that is a health maintenance organization having a certificate of authority under this title may be considered to be a separate carrier for the purposes of this chapter.
 - (c) Unless otherwise authorized by the commissioner or by Chapter 42, Defined Contribution Risk Adjuster Act, a covered carrier may not enter into one or more ceding arrangements with respect to health benefit plans delivered or issued for delivery to covered insureds in this state if the ceding arrangements would result in less than 50% of the insurance obligation or risk for the health benefit plans being retained by the ceding carrier.
 - (d) Section 31A-22-1201 applies if a covered carrier cedes or assumes all of the insurance obligation or risk with respect to one or more health benefit plans delivered or issued for delivery to covered insureds in this state.
- (5)
 - (a) A Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act, or a carrier with the written authorization of such a trust, may make a written request to the commissioner for a waiver from the application of any of the provisions of Subsections 31A-30-106(1) and 31A-30-106.1(1) with respect to a health benefit plan provided to the trust.
 - (b) The commissioner may grant a trust or carrier described in Subsection (5)(a) a waiver if the commissioner finds that application with respect to the trust would:
 - (i) have a substantial adverse effect on the participants and beneficiaries of the trust; and

- (ii) require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained.
- (c) A waiver granted under this Subsection (5) may not apply to an individual if the person participates in a Taft Hartley trust as an associate member of any employee organization.
- (6) Sections 31A-30-106, 31A-30-106.1, 31A-30-106.5, 31A-30-106.7, 31A-30-107, and 31A-30-108, apply to:
 - (a) any insurer engaging in the business of insurance related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit; and
 - (b) any contract of an insurer, other than a workers' compensation policy, related to the risk of a small employer for medical, surgical, hospital, or ancillary health care expenses of the small employer's employees provided as an employee benefit.
- (7) The commissioner may make rules requiring that the marketing practices be consistent with this chapter for:
 - (a) a small employer carrier;
 - (b) a small employer carrier's agent;
 - (c) an insurance producer;
 - (d) an insurance consultant; and
 - (e) a navigator.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session