

EMPLOYERS' GUIDE TO HIPAA RIGHTS REGARDING GROUP HEALTH INSURANCE

Both small and large employers (and employees) receive certain protections under federal and North Carolina law. However, these protections differ for small and large employers, and self-employed individuals are treated differently from other small employers.

WHAT ARE SMALL EMPLOYER GROUPS?

“*Small employer groups*” are those with 1 to 50 employees.

WHEN IS SMALL EMPLOYER GROUP HEALTH INSURANCE AVAILABLE?

Generally, insurers that sell small group policies must do so on a “*guaranteed issue*” basis, which means that no small group can be turned down. Insurers must cover all employees and dependents that are eligible. Employers with 2 to 50 employees must be offered any small group health plan insurers offer to other small employers, including what are known as the “standard” and “basic” plans.

To determine whether an employer is eligible to purchase a small group health plan, insurers may require tax records or other proof of the group’s size and validity. Small group health insurance is “*guaranteed renewable*”. It cannot be canceled because someone in the group becomes sick. However, insurers may impose certain conditions for the coverage to be issued or renewed, such as requiring employers to meet minimum participation and minimum employer premium contribution rates. Insurers may refuse to renew coverage for fraud or nonpayment of premiums.

WHAT ABOUT SELF-EMPLOYED PERSONS?

Under North Carolina law, self-employed persons (with no employees) are considered to be small groups. Insurers are required to offer at least two plans to self-employed persons on a guaranteed issue basis. These two plans are the “standard plan” and “basic plan”. Self-employed persons may be eligible for an insurer’s other plans, subject to underwriting. To determine whether someone qualifies as a self-employed person, insurance companies may require submission of tax forms and other business records. Standard and basic plans are guaranteed renewable.

HOW DOES HEALTH STATUS AFFECT COVERAGE?

Small employers cannot be refused coverage because of the health status of their employees or employees’ dependents. However, a small group can be charged higher premiums, within limits established by law, based on the health, risk, and demographic characteristics of the group. By law, North Carolina limits the difference in premiums and annual increases that can be charged to small groups.

WHAT ABOUT PRE-EXISTING HEALTH CONDITIONS?

A group health plan may refuse to pay for treatment of health conditions you had before you joined your health plan. This is called a pre-existing condition exclusion period.

Both federal and state laws place time limits on pre-existing condition exclusion periods for group health plans. Under federal and state law, a pre-existing condition is a health condition which you received medical advice or treatment for within six months prior to enrolling. The maximum pre-existing condition waiting period for timely enrollees is 12 months. An 18-month pre-existing condition waiting period may be imposed on late enrollees.

WHAT IF AN EMPLOYEE CHANGES JOBS?

For many years, people have been concerned about changing jobs and the effects it has on their health insurance. Previously, medical conditions covered under a prior plan often were not covered under replacement plans. HIPAA's increased portability guarantees that insureds get "credit" for the time covered under a previous plan, provided there is no lapse of more than 63 days. Specifically, insurers must reduce any pre-existing condition limitation periods by the amount of time the insured was covered under prior creditable coverage.

Any coverage under a group plan, individual health insurance policy, Medicare or Medicaid, or North Carolina's Health Choice program or comparable children's' health plan offered by another state is considered "**creditable coverage**". As proof of coverage, employers and/or insurers are required to provide a certificate of creditable coverage to insureds to document the duration of their coverage. That certificate is used to show a new health plan how much pre-existing credit they are entitled to.

Benefits for pre-existing medical conditions cannot be denied under any plan's pre-existing condition limitation provision if the insured has had creditable coverage for at least 12 months without a break (or lapse) in coverage of more than 63 days.

DO MEMBERS OF ASSOCIATIONS QUALIFY FOR SMALL GROUP COVERAGE?

Some small employers, self-employed persons, and other individuals buy health insurance through professional or trade associations. In some cases these association plans may qualify as small employer group health plans.

WHAT KINDS OF PROTECTIONS APPLY TO LARGE EMPLOYER GROUPS?

In North Carolina, large employer groups are those with more than 50 employees.

Large employer groups are entitled to guaranteed renewal rights and are subject to the same protections regarding pre-existing conditions and creditable coverage as are small employer groups. If the large group is accepted, all eligible employees and dependants must be accepted for coverage. However, large employer groups are not entitled to purchase coverage on a guaranteed issue basis, and the restrictions that apply to premium rates for small groups do not apply to large groups.

How to Reach Us

You can reach the North Carolina Department of Insurance (NCDOI), Consumer Services Division at:

800-546-5664 (toll free)

919-807-6750 (outside of North Carolina)

919-715-0319 (TDD) Telephone Device for Deaf Caller

919-733-0085 (Fax)

You can find additional information including our complaint form on the North Carolina Department of Insurance Web site at **www.ncdoi.com**.

The address for the North Carolina Department of Insurance, Consumer Services Division is:

**Consumer Services Division
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201**

Where Can I Find Additional Information?

Centers for Medicare and Medicaid Services (CMS)

- call 1-404-562-7500
- visit the HIPAA web site at www.cms.hhs.gov/hipaageninfo/

US Department of Labor, Employee Benefits Security Administration (for COBRA questions)

- call 1-866-444-3272
- visit USDOL's web site at www.dol.gov/ebsa

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