

July 1997

WEST VIRGINIA INFORMATIONALLETTER

NO. 106

TO: ALL HEALTH MAINTENANCE ORGANIZATIONS, FRATERNAL BENEFIT SOCIETIES, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS, HEALTH CARE CORPORATIONS, AND BUSINESS IN THE STATE OF WEST VIRGINIA (INSURERS)

RE: ELECTION OF INDIVIDUAL GUARANTEE ISSUE POLICIES UNDER THE FEDERAL FALLBACK PROVISIONS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND WEST VIRGINIA CODE § 33-15-2b

The State of West Virginia has implemented, in House Bill 2667, passed by the Legislature on April 12, 1997, the federal fallback provisions contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The federal fallback provisions require insurers offering accident and sickness insurance coverage in the individual market to issue policies to eligible individuals on a guaranteed issue basis without the imposition of any preexisting condition exclusion. Insurers may, however, limit the number of policy forms offered by filing an election with the West Virginia Insurance Commissioner (Commissioner). **Insurers may elect to offer the two most popular policy forms** (those with the largest, and next to the largest, premium volume) **or the two policy forms with representative coverage** (a lower-level coverage policy form and a higher-level coverage policy form).

- Insurers choosing the representative coverage option must justify their choice of policy forms by submitting a full explanation of the methodology used to arrive at the forms selection, including, but not limited to, a description of the actuarial value of benefits and the weighted average calculation, all supporting data, assumptions, actuarial information, and the date the form was approved for use by the Commissioner.

- Insurers choosing the two most popular policies option must submit:
 - data on premium volumes of all policy forms offered by the insurer in the individual market;
 - form numbers of the policies that will be offered on a guaranteed issue basis and the date the form was approved for use by the Commissioner; and
 - a brief description of the coverages available under the forms to be marketed to eligible individuals.

For policy forms already being marketed as of July 1, 1997 (whether the two most popular policy forms or the two forms with representative coverage), the insurer must submit the required information to the Rates and Forms Division of this Office no later than **September 1, 1997**. For other policy forms to be marketed in the future, the insurer must submit the information 90 days before the beginning of the calendar year in which the insurer wants to market the policy form. The elections made by the insurers will be effective for policies offered during a period of at least two years. Any **insurer that fails to file an election will be required to offer all actively marketed policy forms** to eligible individuals.

Inquiries regarding this letter should be directed, in writing, to Donna S. Quesenberry, Associate Counsel, Legal Division, West Virginia Insurance Commission, P.O. Box 50540, Charleston, WV 25305-0540.

Hanley C. Clark
Insurance Commissioner