

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 and 3403 (18 **Del.C.** §§314 & 3403)
18 **DE Admin. Code** 1407

FINAL

ORDER

After publication of proposed Regulation 1407 in the *Delaware Register of Regulations* on March 1, 2007, the public comment period on the proposed regulation remained open until April 2, 2007. Public notice of proposed Regulation 1407 in the *Register of Regulations* and two newspapers of general circulation was in conformity with Delaware law. Written comments were received into the record from America's Health Insurance Plans (AHIP), a trade association, and the Delaware State Council for Disabled Persons.

Summary of the Evidence and Information Submitted

The proposed regulation was promulgated to establish rate filing guidelines as a result of changes in family dependent health coverage enacted by the Delaware General Assembly and signed into law by the Governor. In essence, the changes to 18 **Del.C.** §§3354 and 3570 extended family dependent coverage for children to age 24 under certain conditions. The purpose of the regulation is to establish a time frame and process for health insurers to submit rate plans required by the new law.

The enabling legislation, 75 **Del. Laws** Ch. 419, contained a provision that establishes an effective date of the law "90 days after the State provides benefits fully consistent with its provisions for participants in the State's employee benefit plan." *Id.* at sec. 3. Both AHIP and the representative from MetLife, Timothy Ring, Esquire, suggested that the regulation should be modified to reflect the effective date provisions since the State's employee benefit plan adopted some, but not all, of the provisions. The State's Personnel Office adoption of extended benefits effective March 1, 2007 did not include the expanded dependent coverage benefit for the supplemental lines of insurance (e.g. life insurance, long-term care insurance, vision insurance, dental insurance, etc.) that are offered to state employees. AHIP recommended that section 2.1 be modified to reflect the insurers' obligations consistent with the adoption of benefits for State employees.

It was also noted that the 90 day statutory grace period would commence on March 1, 2007 and that the effective date of the regulation would have to allow for that statutory period.

In all other respects, the comments received by the Department were supportive of the proposed regulation.

Findings of Fact

Pursuant to 18 **Del.C.** §311(a), the Commissioner may promulgate regulations necessary to carry out the provisions of Title 18. Pursuant to 29 **Del.C.** §10113 changes can be made to regulations or proposed regulations that conform to law without the necessity of publication for comment and which do not alter the substance of the regulation.

I find that there is a sufficient basis to conclude that this regulation be adopted to permit the Delaware Department of Insurance to carry out its obligations under 18 **Del.C.** §§3354 and 3570.

I find that a change to section 2.1 to make the application of the regulation consistent with the adoption of benefits by the State Personnel Office is appropriate, conforms to the law and does not alter the substance of the regulation.

I also find that it is appropriate to extend the original effective date of the regulation from May 11, 2007 to June 1, 2007 in conformity with the law.

Decision and Order

Based on the provisions of 18 **Del.C.** §§310, 311, 3354 and 3570 and the record in this docket, I find that there is substantial evidence in favor of the adoption of this regulation to become effective on June 1, 2007. I

further order that section 2.1 of the proposed regulation be amended to read as follows:

2.1 This regulation applies to all Carriers, as defined below, consistent with and to the extent the provisions of 18 **Del.C.** §§3354 and 3570 are adopted and implemented by the State of Delaware for its employees under the State Employees Benefit Plan.

Text and Citation

The text of the proposed amendments to Regulation 1407 last appeared in the *Register of Regulations* Vol. 10, Issue 9, pages 1403-04, March 1, 2007.

IT IS SO ORDERED this 13th day of April, 2007.

Matthew Denn, Insurance Commissioner

1407 Supplemental Health Insurance Coverage for Children of Insureds

1.0 Authority

1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§310, 311, 3354, and 3570 and promulgated in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101.

2.0 Scope

2.1 This regulation applies to all Carriers, as defined below[,consistent with and to the extent the provisions of 18 **Del.C.** §§3354 and 3570 are adopted and implemented by the State of Delaware for its employees under the State Employees Benefit Plan].

3.0 Definitions

"Carrier" means any entity that provides health insurance in this State. For the purposes of this section, carrier includes an insurance company, health service corporation, managed care organization, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

"Covered person" means a person who claims to be entitled to receive benefits from a carrier.

"Dependent" means a covered person's child by blood or by law who:

- a. is less than 24 years of age;
- b. is unmarried;
- c. has no dependents of his or her own;
- d. is a resident of Delaware or is enrolled as a full-time student at an accredited public or private institution of higher education; and
- e. is not actually provided coverage as a named subscriber, insured, enrollee, or covered person under any other group or individual health benefits plan, group health plan, or church plan, or entitled to benefits under 42 U.S.C. §1395 et. seq.

4.0 Submission of Rate Plans

4.1 No later than 30 days following the effective date of this regulation, each Carrier shall submit the following to the Commissioner:

4.1.1 Certified notice that within 60 days following the effective date of this regulation, the carrier will be in compliance with all terms of 18 **Del.C.** §§3354 and 3570.

4.1.2 A rate filing containing proposed premiums for dependent coverage consistent with 18 **Del.C.** §§3354(g), 3354(h), 3570(g) and 3570(h).

4.2 Where possible, rate filings made consistent with this regulation shall be made in the format and on the forms required of the carriers' other filings made pursuant to Title 18, Chapter 25 of the **Delaware Code**.

4.3 Rate filings required by this regulation shall demonstrate that the premium charged pursuant to 18

Del.C. §§3354 and 3570 does not exceed 102% of the applicable portion of the premium previously paid for that dependent's coverage under the contract prior to the termination of coverage at the specific age provided in the contract.

4.4 Compliance with Section 4.3 of this Regulation shall be demonstrated by:

4.4.1 Establishing the portion of existing carrier costs directly attributable to inclusion of persons whose coverage would have been terminated due to age but for implementation of 18 Del.C. §§3354 and 3570.

4.4.2 Generating a rate schedule that assesses premiums no greater than 102% of the costs generated by Section 4.4.1.

4.4.3 Fixed costs which would be incurred by the carrier regardless of inclusion of persons whose coverage would have been terminated due to age but for implementation of 18 Del.C. §§3354 and 3570 shall not be included in the carrier costs established under Section 4.4.1, and the rate filings made pursuant to Sections 4.2 and 4.3 shall affirmatively state that such fixed costs have not been included.

4.4.4 Carriers may submit rate filings pursuant to Sections 4.2 and 4.3 that produce premiums substantially similar to those that would be generated by compliance with Sections 4.4.1 through 4.4.3.

4.4.5 The Department interprets 18 Del.C. §§3354 and 3570 to permit and require it to review rate filings made pursuant to this Regulation to ensure that they are not excessive. The effective filing date provisions of 18 Del.C. §2506 apply to a carrier's conditional right to charge premiums upon the filing of a rate request.

4.4.6 The carrier shall be required to submit the notices, or any amendments thereto, required by 18 Del. C. §§3354(j) and 3570(j) to the Department for form approval prior to their use.

5.0 Effective Date

5.1 This Regulation shall become effective ~~May 11~~ June 1], 2007.

10 DE Reg. 1711 (05/01/07) (Final)