Indiana Department of Insurance
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Bulletin 265

EXTENSION OF RENEWAL OF NON-ACA-COMPLIANT POLICIES

This Bulletin is directed to all insurers issuing accident and sickness insurance policies, as defined at IC 27-8-5-1; all health maintenance organizations ("HMOs"), as defined at IC 27-13-1-19 (collectively, "insurers"); and all Hoosiers enrolled in accident and sickness insurance policies in the individual and small group markets. The purpose of this Bulletin is to extend the Department's position regarding the renewal of transitional policies, which was initially announced in Bulletin 205.

On March 5, 2014, the Centers for Medicare and Medicaid Services ("CMS") issued a bulletin providing for a two-year extension that would allow insurers to renew existing non-grandfathered policies that do not comply with all requirements of the Affordable Care Act (hereinafter "transitional policies"). The Department subsequently issued Bulletin 205, which permitted transitional policies to be renewed in Indiana at the insurers' discretion. On February 29, 2016, CMS announced an extension of transitional policies to policy years beginning on or before October 1, 2017, so long as all transitional policies end by December 31, 2017. The Department subsequently issued Bulletin 227, which again permitted such policies to be renewed in Indiana at the insurers' discretion.

On February 23, 2017, CMS announced an additional extension of transitional policies to policy years beginning on or before October 1, 2018, so long as all transitional policies end by December 31, 2018. The Department subsequently issued Bulletin 237, which again permitted such policies to be renewed in Indiana at the insurers' discretion. On April 9, 2018, CMS announced an additional extension of transitional policy years beginning on or before October 1, 2019, as long as all transitional policies end by December 31, 2019. On January 31, 2020, CMS announced an additional extension of transitional policy years beginning on or before October 1, 2021, as long as all transitional policies end by December 31, 2021. The Department subsequently issued Bulletin 243, which again permitted such policies to be renewed in Indiana at the insurers' discretion.

On January 19, 2021, CMS announced an additional extension of transitional policy years beginning on or before October 1, 2022, as long as all transitional policies end by December 31, 2022. The Department subsequently issued Bulletin 258, which again permitted such policies to be renewed in Indiana at the insurers' discretion.

On March 23, 2022, CMS announced an indefinite extension of transitional policies that have been continually renewed since 2014. Such extension will remain in effect until CMS announces that such transitional policies must end. CMS's announcement is available at https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2023-and-later-benefit-years.pdf.

Therefore, insurers may determine at their discretion whether to renew transitional policies that have been continually renewed since 2014, so long as the determination is made on a non-discriminatory basis. If insurers choose to renew its transitional policies, the policies may be renewed for no longer than 12 months. Insurers may choose from the following renewal options:

- All individual and small group transitional policies;
- Only individual transitional policies; *or*
- Only small group transitional policies.

The Department is not requiring insurers to renew their transitional policies. Furthermore, consumers may not purchase new transitional policies or switch to a different insurer to replace an existing transitional policy. Transitional policies that have been canceled cannot be reinstated. Consumers should understand that rates for renewals of transitional policies, as with all policies, may increase. It may be in an individual's best interest to explore all policy options.

The Department requests that insurers that elect to renew its transitional policies to provide to the Department the number of transitional policies in effect. The Department requests that insurers provide such information by November 1, 2022.

Questions regarding this Bulletin should be directed to compliance@idoi.IN.gov.

INDIANA DEPARTMENT OF INSURANCE

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