

TO: Insurers Authorized to Write Small Group and Individual Transitional Health Insurance Plans

FROM: J.P. Wieske, Deputy Commissioner

SUBJECT: Extension of Transitional Health Insurance Plans Through December 31, 2019

On April 9, 2018, the Centers for Medicare and Medicaid Services (CMS) released a bulletin allowing states to permit insurers to renew transitional policies as long as such policies do not extend past December 31, 2019.¹ In light of this new federal guidance, the Office of the Commissioner of Insurance (OCI) is issuing this bulletin to allow for the extension of these plans as outlined by CMS.

¹CMS guidance can be found at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Extension-Transitional-Policy-Through-CY2019.pdf>.

Specifically, the new guidance on transitional plans extends the use of transitional plans through December 31, 2019, and provides insurers relief from compliance with the following Public Health Services Act provisions:

- Section 2701 (relating to fair health insurance premiums);
- Section 2702 (relating to guaranteed availability of coverage);
- Section 2703 (relating to guaranteed renewability of coverage);
- Section 2704 (relating to the prohibition of preexisting condition exclusions or other discrimination based on health status), with respect to adults, except with respect to group coverage;
- Section 2705 (relating to the prohibition of discrimination against individual participants and beneficiaries based on health status), except with respect to group coverage;
- Section 2706 (relating to non-discrimination in health care);
- Section 2707 (relating to comprehensive health insurance coverage);
- Section 2709, as codified at 42 U.S.C. § 300gg-8 (relating to coverage for individuals participating in approved clinical trials);

Additionally, policies subject to the transitional relief are not considered to be out of compliance with section 1312(c) of the Affordable Care Act (relating to the single risk pool requirement). As a reminder, insurers can choose to adopt some or all of these provisions in their renewed policies.

There is a potential that in the 2019 plan year insurers will again face an issue of policies that end prior to December 31, 2019, or if renewed in 2019 will extend beyond December 31, 2019. OCI has recently received additional guidance similar to the information contained in the July 2016 bulletin issued by OCI; insurers will be permitted to extend an annual policy through December 31, 2019, so that consumers are not left with a gap in coverage from the date of policy renewal to the end of the year. OCI encourages insurers to work with small employers and consumers to ensure smooth transitions. OCI will monitor plans to ensure that during the extended coverage period premium and cost-sharing are continued without resetting or rating if the only change is the extension through December 31, 2019. OCI will continue to advocate for greater flexibility in handling transitional policies that renew in the 2019 plan year.

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Any questions concerning this bulletin should be directed to Lisa Brandt at Lisa.Brandt@wisconsin.gov.
