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MISSISSIPPI INSURANCE DEPARTMENT BULLETIN 2014-8

TO: TO INSURANCE CARRIERS WRITING HOSPITAL OR OTHER FIXED INDEMNITY INSURANCE PRODUCTS IN MISSISSIPPI

FROM: MIKE CHANEY
COMMISSIONER OF INSURANCE

DATE: AUGUST 14, 2014

SUBJECT: COMPLIANCE WITH THE CENTER FOR MEDICARE AND MEDICAID SERVICES' (CMS) *FINAL RULE ON THE EXCHANGE AND INSURANCE MARKET STANDARDS FOR 2015 AND BEYOND* AS IT RELATES TO HOSPITAL OR OTHER FIXED INDEMNITY INSURANCE PRODUCTS

I. PURPOSE AND SCOPE

CMS issued the *Final Rule on the Exchange and Insurance Market Standards for 2015 and Beyond* on May 27, 2014. Included are new conditions for a hospital or other fixed indemnity insurance product¹ to be considered a HIPPA excepted benefit. This bulletin will address the new conditions as well as implementation and enforcement.

II. STANDARD

Any fixed indemnity plan sold in the individual market with a plan year beginning on or after January 1, 2015 must meet the following criteria:

- (1) The benefits are provided only to individuals who have other health coverage that is considered minimum essential coverage within the meaning of 26 U.S. Code § 5000A(f);
- (2) There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage;
- (3) The benefits are paid in a fixed dollar amount per day of hospitalization or illness or per service (for example, \$100/day or \$50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage; and
- (4) A notice is displayed prominently in the application materials² in at least 14 point type that has the following language:

¹ See 45 CFR 148.220

² This notice can be a separate paper in the package; it does not need to be in the application or the policy.

“THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES.”

Further, carriers selling individual fixed indemnity plans with plan years beginning on or after January 1, 2015, must include in the application a written attestation that the purchaser has minimum essential coverage. This is a one-time attestation and the carrier is not required to confirm continued enrollment in a plan. The Mississippi Insurance Department (The Department) suggests the following attestation clause and recommends that it be placed above the signature line in the application:

I HEREBY ATTEST THAT I AM PURCHASING THIS POLICY AS A SUPPLEMENT TO MY HEALTH COVERAGE, WHICH MEETS THE FEDERAL REQUIREMENT OF MINIMUM ESSENTIAL COVERAGE.

III. ENFORCEMENT

New Sales Effective January 1, 2015:

Any carrier who has already submitted a hospital or other fixed indemnity filing to the Department need only to include the amended application in its amended filing. To ensure that all filings have been reviewed in a timely manner, all filings and amendments should be submitted to the Department for review by October 1, 2014.

Policies Currently In Force:

CMS's *Final Rule* additionally requires that for policies currently in force, carriers must secure a one-time attestation that the enrollee has minimum essential coverage by October 1, 2016, or a date set by state law. If the carrier cannot obtain an attestation from an enrollee in an existing plan by the deadline, then that plan must be: a) amended to comply with the Affordable Care Act, or b) cancelled. Furthermore, for policies issued before January 1, 2015, the Notice (see Section II, number 4 above) is to be delivered shortly before the first renewal date occurring on or after January 1, 2015. If the carrier continues a plan in violation of the *Final Rule* regulation, it could be subject to *federal* monetary penalties of up to \$100 per month, per policy, per affected person. The Mississippi Insurance Department, however, will not interfere with such existing contracts.

Questions may be directed to the Life & Health Actuarial Division, (601)359-9375.

Issued this the 14th day of August, 2014.


MIKE CHANEY
COMMISSIONER OF INSURANCE