January 20, 1993
BULLETIN #554
BULLETIN TO ALL MEMBERS:
RE: ASSEMBLY BILL 1672 - HEALTH COVERAGE TO SMALL EMPLOYER GROUPS

Enclosed is a copy of draft bulletin #93-N dated January 11, 1993 issued by the California Department of Insurance. This legislation makes fundamental changes in the small group health insurance laws effective July 1, 1993. A meeting for all interested parties concerning the implementation of AB1672 will be held on Friday, February 5, 1993 at 10:00 a.m. at the Department of Insurance in Sacramento, California.

If you have questions or comments, please direct them to Laura Rosenthal, Legislative Counsel, California Department of Insurance, 801 "K" Street, Sacramento, California.

James S. Pugh
Assistant Manager
JSP/imb
Enclosure

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE
SAN FRANCISCO

NOTICE OF MEETING

TO: ALL INSURERS ISSUING "HEALTH" COVERAGE TO SMALL EMPLOYER GROUPS; OTHER INTERESTED PARTIES

SUBJECT: Assembly Bill No. 1672 ("Small Group Reform")

On Friday, February 5, at 10:00 a.m., the Department of Insurance will hold a meeting for all interested parties concerning the implementation and enforcement of Assembly Bill No. 1672 (Chapter 1128 of the Statutes of 1992). This legislation makes fundamental changes in our small group "health" (medical, hospital and surgical) insurance laws, effective July 1, 1993. The meeting will be held at:

Room 150

801 Capitol Mall
Sacramento. California

The purpose of the meeting will be to answer questions and disseminate information concerning the requirements of AB1672 and the filings required thereunder. The attached "Exposure Draft" of a proposed Bulletin on the legislation will also be discussed. We will welcome written comments from both attendees and those who cannot attend.

Although the meeting will be public, space will be limited, so please notify us by January. 28 if you expect to attend so that we can obtain additional space if necessary..

Comments on the proposed Bulletin and RSVPs should be directed to:

Laura Rosenthal, Legislative Counsel
California Department of Insurance
801 K Street, Suite 1809
Sacramento CA 95814
Telephone (916) 322 9209

January 12, 1993

Insurance Commissioner

EXPOSURE DRAFT
January 11, 1993

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE
SAN FRANCISCO
DRAFT Bulletin No. 93-N
February NN, 1993

TO: ALL INSURERS PROVIDING "HEALTH" COVERAGE TO SMALL EMPLOYER GROUPS; OTHER INTERESTED PARTIES

SUBJECT: Assembly Bill No. 1672 ("Small Group Reform")

This Department has received numerous inquiries concerning Assembly Bill No. 1672 (Chapter 1128 of the Statutes of 1992) which makes fundamental changes in our small group "health" (medical, hospital and surgical) insurance laws, effective July 1, 1993. This Bulletin is to put insurers, administrators and producers on notice of this legislation and to address questions we have received about it.

I. Highlights of the New Legislation. AB 1672 adds Sections 10198.6 through 10198.9 (applicable to all employment-related health insurance) and Sections 10700 through 10749 (applicable to "small

employer" group health insurance) to the California Insurance Code. Although parts of AB 1672 may resemble the NAIC model small group health insurance law, the legislation is significantly different from it in many respects.

Any entity or person providing, administering or marketing health insurance to California employers of from 3 to 50 employees must become familiar with AB 1672. (Note that "administrators" are included within the definition of "carrier" in the legislation.) Copies of the legislation are available from trade associations, insurance law services and the California Legislative Bill Room, telephone (916) 445-2323.

Some of the key provisions of AB 1672 are:

A. Guaranteed issue of all health insurance products sold to employers of 5 - 50 employees;

B. Guaranteed renewal of all health insurance products sold to employers of 3 - 50 employees;

EXPOSURE DRAFT
January 11 , 1993

C "Rate bands" limiting the extent to which a small employer's rates can be varied at issue or increased on renewal to account for differences in health status and similar factors;

D. Standardized demographic rating factors;

E. Restrictions, not limited to the small group market, on the use of pre-existing conditions exclusions, waiting periods and "late enrollee" limitations;

F. Establishment of a voluntary reinsurance mechanism;

G. Establishment of a publicly-sponsored purchasing pool.

II. Key Filings for Approval Required by the Law. All filings required or provided for by AB 1672 should be addressed to the Policy Approval Bureau of the Department's Legal Division at 45 Fremont Street, San Francisco, CA 94105. The filings provided for in the new law are summarized below; the cited Code Sections must be consulted for details.

A. MANDATORY FILINGS

(Department approval required).

1. All policy and/or certificate forms delivered in the California small group health insurance market regardless of the situs of the master contract. Insurance Code _0705(a).

2. A list of all benefit plan designs; standard employee risk rates (the chart of standard demographic rates) for each risk category for each benefit plan design; and the highest and lowest risk adjustment factors that a carrier plans to use for each benefit plan design. Insurance Code _10717(a).

3 . All changes in benefit plan designs, risk categories, risk adjustment factors, or standard employee risk rates. Insurance Code _0717(b). A carrier changing only the standard employee risk rates but not changing previously approved risk categories or risk adjustment factors need only make an informational filing of such rates. Insurance Code _0717(c).

(Department approval not required):

2
EXPOSURE DRAFT
January 11, 1993

4. Annual certifications that a carrier is exempt from marketing coverage outside an association pursuant to Insurance Code _10705(b)(2) because it has sold health products only to members of that one association since January 1972. Insurance Code 10705(b)(3).

5. Annual statements listing all associations to which or through which a carrier sells health benefit plans and providing other required information. Insurance Code _0705(b)(4).

6. Participation and employer contribution requirements.

B. OPTIONAL FILINGS (Department approval required);

1 . Certifications that a carrier has met its cap on enrollment of new small employers. Insurance Code _0705(l).

2. Requests that the Commissioner make a finding that a carrier need not accept additional small employer applications because of lack of capacity within its network of providers. Insurance Code _10711 (c).

3. Requests that the Commissioner make a finding that acceptance of additional applications would place the carrier in a financially impaired condition. Insurance Code _0712.

III. The following are our responses to the more-commonly asked questions that we have received concerning the law. The answers below reflect our understanding (derived from our participation in its development) of the intended operation of AB 1672. They are provided to assist interested persons in their analysis of the legislation.
IV.
V. A. To what extent may a carrier (an insurer or an administrator) limit the availability of a small group health insurance product to members of a specified association?

No "association-specific" products are permitted except for the Insurance Code _10705(b)(2) exemption - carriers that have sold health products solely through one association for 20 years. If a carrier sells a product to any small employer group or to any association that includes a small employer group, then AB 1672's guaranteed issue requirements apply and the carrier must market that product to the entire

small group market.

3

EXPOSURE DRAFT
January 11, 1993

B. If a carrier discontinues a product and declines to market it or offer it for sale to new customers, may the carrier renew the product to existing customers?

No. If an insurer does not wish to market an existing benefit plan design to all the small employer market, than it must non-renew existing coverage under that plan and offer new benefit plan designs complying with AB1672 to the non-renewed employers. This is true whether the existing customers are associations, small employers who are members of associations or small employers purchasing coverage on their own. Numerous provisions of AB1672 _0716(e), 10714(b)(3) and 10713(d), among others) clearly contemplate that any benefit plan designs continued, even if just renewed for existing business, after July 1, 1993, are subject to the guaranteed issue requirements. Insurance Code _0705(b) and (h).

C. At what date must a carrier selling a trust or association product comply with the rules concerning premiums - on the date coverage is sold to or renewed for a specific small employer or only on the renewal date of the policy issued to the trust or association?

Any time coverage is sold or renewed to any small employer, the rules concerning rate bands and limitations on renewal premiums apply. Note that the rate bands for a given product must be observed both within the trust or association and as to all other small employers who are entitled to purchase the product under the guaranteed issue sections of the law. Insurance Code _1 0714.

D. If an insurer wants to cover immediately a "late enrollee " who could be excluded entirely for one year under the new law, can it impose a waiver of coverage for a specified pre-existing condition for that year?

Carriers are not permitted to limit or exclude coverage for a specific eligible employee or dependent by type of illness, treatment, medical condition, or accident, except for pre-existing conditions as permitted in the new law. However, it would appear to be consistent with the law to allow carriers to impose individual "waiver" riders on late enrollees in lieu of totally excluding them from coverage, for the period of time that the late enrollee could be excluded entirely. Insurance Code _0198.7(a), 10198.7(d), 10707 and 10709.

4

EXPOSURE DRAFT
January 11, 1993

E. What are "participation requirements" as used in the law?

There is no apparent basis for interpreting the phrase "participation reqirements" to mean anything different from the generally-accepted meaning of the phrase in the industry - standards set by a carrier requiring that a stipulated minimum percentage of an employer's employees must be enrolled as a condition of sale. Furthermore, the legislation does not contemplate that insurers can impose requirements that individual employees or employer groups qualify for or purchase "non-health" products before they are eligible for guaranteed issue. Insurance Code _0705.

F. Does a carrier which is marketing coverage in the open marketplace and also through the Voluntary Alliance Uniting Employers Purchasing Program have to use the same participation and employer contribution standards and geographical regions (i.e., those of the Program) in both segments of its business?

The law states that a carrier must use the same standards and regions for all products sold in the small group market (with specified exceptions). This requirement does not appear to extend to products sold through the purchasing pool, since the Major Risk Major Medical Insurance Board (which will initially administer the Program) defines those standards and regions for the purpose of the pool. Insurance Code __10706, 10731 (l) and (j) and 10732.

G. Does a small group carrier have to credit "time served" in preceding plans against pre-existing conditions limitations and waiting periods, or just against the former?

SECTION 9 of AB 1672 (pertaining to all employment-related health insurance) specifically requires that credit be given against both pre-existing conditions limitations and waiting periods where there has been previous qualifying coverage. SECTION 10 of AB 1672 (pertaining to small employer groups) omits the reference to waiting periods. We believe that SECTION 9 states the general rule which should be applied in all instances.

H. To what extent does a carrier have to comply with AB 1672 if it provides "stop loss" coverage for employers or associations which "self-insure" and which would otherwise be clearly within the ambit of the law if they were "insured"?

The small group portion of the legislation provides that any product sold by a carrier or other party is a "benefit plan design" subject to all the requirements of the chapter, including guaranteed issue and rate band limits. This includes products which consist of stop-loss insurance sold to coordinate with so-called "self-insured" plans. (Note that California law prohibits self-insured multiple employer welfare arrangements.) The law also provides that carriers selling any type of stop-loss insurance are specifically required to ensure that the underlying plan meets all the law's pre-existing conditions, waiting period and late enrollee requirements. Insurance Code _0700(c), 10708(d), 10709(b) and 10198.7 (e).

IV. New Restrictions on Coverage Limitations Applicable to Newly-Insured Persons in ALL

Employment-Related Health Insurance.

AB 1672 makes significant changes, not limited to the small group market, in the laws governing pre-existing conditions exclusions, waiting periods and "late enrollee" limitations in all employment-related individual or group insurance programs covering three or more persons. It establishes maximum time limits on pre-existing conditions exclusions and waiting periods for coverage. It also requires that insurers credit, toward the satisfaction of such exclusions and waiting periods, newly-insured persons with the time that they have been covered under qualifying preceding health benefit plans in specified circumstances. (Note that these provisions apply regardless of whether the employer contributes to the premium.) Insurance Code _0198.6 through 10198.8.

V. Inquiries about this Bulletin or AB 1672 should be directed to:

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