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**Bulletin 2015-031**  
**November 13, 2015**

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**TO: EVERY INSURER, HEALTHCARE INSURER, HEALTH MAINTENANCE ORGANIZATION, NONPROFIT HEALTHCARE PLAN, NONPROFIT VISION OR DENTAL ONLY PLANS AND DISABILITY INCOME PLANS TRANSACTING INSURANCE BUSINESS IN NEW MEXICO**

**RE: PREMIUM SURTAX PURSUANT TO NMSA 1978 SECTION 59A-6-2(C) HEALTH INSURANCE COVERAGE REQUIREMENTS PURSUANT TO ARTICLES 46 AND 47 OF THE INSURANCE CODE**

**THE FOLLOWING BULLETIN is issued pursuant to NMSA 1978 Sections 59A-2-8, 59A-2-10, 59A-6-2. and Sections 13.2.1-10 NMAC.**

**THIS BULLETIN SUPERSEDES BULLETIN NO. 2004-003**

In 2004, NMSA 1978 Section 59A-6-2 was amended to impose a health insurance premium surtax of one percent of the gross health insurance premiums and membership and policy fees<sup>1</sup> on health insurance or contracts, excluding disability income insurance or contracts, covering health risks within New Mexico. This premium surtax applies to taxpayers that transact health insurance in New Mexico or that are a plan described in Chapter 59A, Article 47 or Article 47 NMSA 1978 and is payable in addition to the standard premium tax required by 59A-6-2 NMSA 1978.<sup>2</sup>

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<sup>1</sup> Less all return health insurance premiums, including dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks.

<sup>2</sup> See Section 12 of SB 502 which was passed by the New Mexico Legislature and signed by the Governor in 2004.

The surtax is applicable to premiums received after July 1, 2004 on policies or contracts issued or renewed after July 1, 2004 and to premiums received after October 1, 2004 on all policies or contracts. The manner and timing of the payment of the surtax is the same manner and timing as the payment of premium taxes including required quarterly payments. New Mexico defines health insurance broadly. In 2004, the disability income plans were the only type of health insurance product exempted from the surtax.

In 2005, the New Mexico Legislature changed the text of NMSA 1978 Section 59A-6-2(C)<sup>3</sup>, to reflect the text of Subsection (C) as it exists in its present form, the text follows:

C. In addition to the premium tax imposed pursuant to Subsection B of this section, each taxpayer described in Subsection A of this section that transacts health insurance in New Mexico or is a plan described in Chapter 59A, Article 46 or 47 NMSA 1978 shall pay a health insurance premium surtax of one percent of the gross health insurance premiums and membership and policy fees received by it on hospital and medical expense incurred insurance or contracts; nonprofit health care service plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year, less all return health insurance premiums, including dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. Except as provided in this section, all references in the Insurance Code to the premium tax shall include both the premium tax and the health insurance premium surtax.

Subsection C of NMSA 1978 Section 59A-6-2, limits the types of health insurance exempted from the surtax to:

- (1) nonprofit vision only plans; and
- (2) nonprofit dental only plans.

In addition to the exemptions from the surtax specifically listed in items one (1) and two (2) above, NMSA 1978 Section 59A-6-2(E) provides two additional exemptions. Please refer to the statute for these exemptions.

Every other type of supplemental health insurance plan will be considered “hospital or medical expense incurred insurance or contracts” as defined by Subsection C of NMSA 1978 Section 59A-6-2.

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<sup>3</sup> See HB 444 which was passed by the New Mexico Legislature and signed by the Governor.

In 2004, SB 502 also enacted new sections of Chapter 59A, Article 22 (Health Insurance Contracts) and Article 23 (Group and Blanket Health Insurance Contracts) NMSA 1978. Taken together, these new sections state that an individual, blanket or group health insurance policy, individual or group health maintenance policy, health care plan or certificate of health insurance that is delivered, issued for deliver or renewed in New Mexico shall provide coverage for:

- (1) An alpha-fetoprotein IV screening test for pregnant women, generally between sixteen and twenty weeks of pregnancy, to screen for certain genetic abnormalities in the fetus; and
- (2) Circumcision of newborn males.

This Bulletin is limited to a general discussion of these requirements. Insurers and agents should carefully review SB502 in its entirety regarding the changes to Articles 22 and 23, to ensure complete and timely compliance with New Mexico law.

**ISSUED** at Santa Fe, New Mexico on November 13<sup>th</sup>, 2015.

  
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**JOHN G. FRANCHINI**  
**Superintendent of Insurance**