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NM OFFICE OF
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OF INSURANCE

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Bulletin 2018-010

July 6, 2018

TO: ALL INSURANCE CARRIERS THAT OFFER OR ADMINISTER HEALTH INSURANCE PLANS

RE: GROUPS OF RETIREES

THE FOLLOWING Bulletin is issued pursuant to Sections 59A-2-8, 59A-18-12, 59A-18-13, 59A-18-14, 59A-18-17, and 59A-23-3 NMSA 1978 and Section 13.1.2.1 *et seq.* NMAC.

This Bulletin is issued by the Office of Superintendent of Insurance (“OSI” or “the Superintendent”) to interpret New Mexico statutes in response to requests from insurance carriers who wish to offer retiree group health coverage.

Article 23 of Chapter 59A NMSA 1978, pertaining to group and blanket health insurance contracts, does not explicitly permit coverage of groups that include only non-working (retired) former employees; however, the statute does allow the Superintendent the discretion to extend group sickness and accident coverage to “...any other substantially similar group.” (*See* §59A-23-3(A)(4) NMSA 1978.) Therefore, the Superintendent has determined that it is in the best interest of New Mexico residents to permit insurers to offer retiree group health insurance.

As announced by this Bulletin, OSI shall permit carriers to submit retiree group health insurance plans for approval and subsequent issue to New Mexico retiree groups, subject to the provisions set forth below.

Requirements for all retiree group health plans:

- Only individuals that are receiving benefits under the employer’s pension benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (ERISA) (29 USC 29 § 1000, *et seq.*), shall be eligible for coverage in the employer’s retiree group health plan. The employer’s active employees must be explicitly excluded from eligibility for the retiree group health plan.
- The group retiree health plan shall be subject to New Mexico law as if issued under the provisions of Section 59A-23-3(A) NMSA 1978, and any references in Article 23 Chapter 59A NMSA 1978 to “employees” shall be interpreted to mean “employees or retirees.”

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- For purposes of determining whether the employer is a “small employer” with respect to the employer’s retiree group health coverage, a “small employer” shall be defined as in Article 23 of Chapter 59A NMSA 1978 based on the number of “eligible employees,” exclusive of retirees. “Eligible employees” in such definition shall refer to total employees, as defined in Section 59A-23E-2(HH) NMSA 1978.
- Article 23B of Chapter 59A NMSA 1978, relating to Minimum Healthcare Protection, shall not apply to retiree group health plans.
- The insurer shall file the entire policy and rates, along with certificates, endorsement and any riders for approval in SERFF.

Any person aggrieved by a bulletin may request a hearing before the Superintendent in accordance with §59A-4-15 NMSA 1978.

If you have additional questions regarding this Bulletin, please contact the Life and Health Rate and Form Filing Bureau, Office of Superintendent of Insurance, at LHRFF.osi@state.nm.us.

DONE and ORDERED this 6th day of July, 2018.



JOHN G. FRANCHINI
Superintendent of Insurance

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