TO: HEALTH INSURANCE CARRIERS OR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS OFFERING SMALL GROUP OR INDIVIDUAL HEALTH INSURANCE PLANS THAT PROVIDE BENEFITS OTHER THAN EXCEPTED BENEFITS


THE FOLLOWING BULLETIN is issued pursuant to NMSA 1978, §§ 59A-2-8, 59A-2-10 and 13.1.2.1 to 13.1.2.10 NMAC.

This bulletin is issued by the Office of Superintendent of Insurance ("OSI" or "the Superintendent") in order to ensure that all health benefits plans delivered or issued for delivery to New Mexico residents are in compliance with Chapter 59A, NMSA 1978, the Insurance Code, and its most current amendments.

On April 4, 2019, Governor Michelle Lujan Grisham signed House Bill 436, Align Health Insurance Law with Federal Law, which makes multiple changes to the Insurance Code, including the repeal of Chapter 59A, Article 23B NMSA 1978, the Minimum Healthcare Protection Act, and Section 59A-22-37 NMSA 1978, the provision allowing "franchise" insurance. On the same date, the Governor signed House Bill 285, the Short-Term Health Plan and Excepted Benefit Act, banning the sale and issuance of unlicensed and unapproved health benefits plans.
Accordingly, as of the laws’ effective date of June 14, 2019, health insurance carriers shall immediately cease to sell and shall not renew any plans other than major medical and limited benefits plans as defined in 13.10.29.7 NMAC. Carriers may sell short-term plans, but shall not renew them. This requirement includes limited or excepted benefits policies designed to mimic, either as a stand-alone policy or in combination, in any way the coverage provided by major medical health benefits plans. Such plans include coverage offered pursuant to the Minimum Health Care Protection Act and “franchise” insurance law. Carriers may continue to offer existing non-compliant plans only if the associated forms and rates are brought into compliance through the submission of amendments for review and approval by OSI via the System for Electronic Rate and Form Filing (“SERFF”) no later than September 30, 2019. Non-compliant plans shall be discontinued no later than December 31, 2019.

Health insurance carriers shall assist in transitioning persons covered under non-compliant plans to coverage compliant with state and federal law on their 2019 renewal date, but no later than December 31, 2019. Such transition for coverage currently offered under the “Minimum Health Care Protection Act” and “franchise” insurance law shall be carried out in compliance with the notice requirements, conditions, and timelines set forth in Section 59A-23E-1 et seq., NMSA 1978. The required written notice from carriers shall include the web address and the consumer assistance telephone number for the New Mexico Health Insurance Exchange (www.bewellnm.com and 1-833-862-3935). If a non-compliant Minimum Health Care Protection Act or “franchise” insurance plan’s renewal date is prior to December 31, 2019, the carrier shall notify affected policyholders in writing that the loss of coverage may trigger a special enrollment period for an ACA-compliant plan (see 45 C.F.R § 155.420) through the New Mexico Health Insurance Exchange.

A person issuing policies or certificates or soliciting business in any manner based on non-compliant form and rate filings acts in violation of the Insurance Code. Such violations are subject to regulatory enforcement and may result in fines and other penalties.

Any person aggrieved by a bulletin may request a hearing before the Superintendent in accordance with NMSA 1978, § 59A-4-15.
If you have questions regarding this bulletin, please contact the Life and Health Product Filing Bureau at (505) 827-4601 or LHRFF.osi@state.nm.us.

DONE AND ORDERED this 31st day of May, 2019.

[Signature]

JOHN G. FRANCHINI
Superintendent of Insurance