

January 26, 1998

TO:

COMPANY PRESIDENTS
ALL COMPANIES (INDEMNITIES AND HMOs) WRITING
HEALTH INSURANCE BUSINESS

FROM:

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RE:

COMPANY BULLETIN #98-1
HIPAA QUESTIONS AND ANSWERS - SET #2

The following department policies have been developed in response to inquiries regarding implementation of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-911, and Illinois Senate Bill 802, now Public Act 90-30. These Acts are referred to as HIPAA in the following material. The questions and headings listed below are a continuation from Company Bulletin #97-4 dated August 28, 1997. Company Bulletins can be accessed at the Department's website at insurance.illinois.gov/. Additional questions and answers will be released in the future as necessary.

LATE AND SPECIAL ENROLLMENT

4E. Q. An issuer, ABC Health Insurance Company, decides that it will accept late enrollees and issues a master group policy to employer XYZ. Several months later, Mr. Prex begins employment with the XYZ Company but declines the group coverage because he is covered under his wife's employer's group policy. A few months later Mr. Prex, who is diabetic, decides he would have better coverage under his employer's insured plan than under his wife's employer's plan and applies for coverage under the XYZ Company plan. Mr. Prex is told that he is a late enrollee under the XYZ Company insured plan because he did not take the coverage when it was first offered to him.

Mr. Prex asks when his coverage as a late enrollee will become effective. Mr. Prex is told that his application will be denied and no certificate of coverage will be issued. However, in 18 months, if he is still an employee, he can reapply and automatically be issued coverage with no preexisting condition exclusions.

Mr. Prex then asks the following questions: Will the 18 months I have to wait before being covered count as prior creditable coverage and reduce my preexisting condition exclusion period should I change jobs? If five months from now, while riding my unicycle, I fall and break my arm, will I be covered under the XYZ Company plan? Mr. Prex is told that the answer to each of his questions is "no" since no certificate of coverage will be issued.

Is ABC Health Insurance Company's procedure acceptable?

A. No. This procedure circumvents HIPAA which provides for imposition of an 18 month preexisting condition exclusion period, not an 18 month waiting period.

4F. Q. May issuers decide to accept late enrollees only during an annual open enrollment period and apply the 18 month preexisting condition exclusion period?

A. Yes. Issuers may accept late enrollees during an open enrollment period and choose to apply up to an 18 month preexisting condition exclusion period. The Department would consider a minimum of 31 days to be a reasonable time frame for the open enrollment period.

4G. Q. Employee A is an active employee of Employer X. Employee A was hired on May 3, 1992. Employer X maintains a group health insurance contract with a plan year beginning on January 1. The terms of the plan allow employees to apply when first hired and each January 1st if they can pass a physical examination. A's application was denied due to diabetes. Can employee A now apply for insurance with employer X after the enactment of HIPAA and be issued insurance coverage?

A. Yes. Effective January 1, 1998, employer X's plan cannot deny coverage to employee A based on a health status related factor. If employee A enrolls effective January 1, 1998, A may not be treated as a late enrollee for the purpose of determining the period of a preexisting condition exclusion.

HMO ISSUES

10A. Q. Under HIPAA, must a HMO conversion contract be guaranteed renewable?

A. Effective July 1, 1997, all group and individual conversion contracts must be issued on a group or individual basis as guaranteed renewable. The Department has modified the Health Maintenance Organization Regulation (Part 5421) to remove the 18 month requirement on conversion contracts. In addition, the Regulation now requires a written notice be sent to the member prior to the issuance of the conversion contract stating that the election of any conversion contract will terminate the individual's federal eligibility for coverage under the Illinois Comprehensive Health Insurance Plan (see question 9A in Company Bulletin #97-4). Any conversion contract in force after July 1,

1997 must be modified to bring the contract into compliance with HIPAA.

10B. Q. For what reasons may a HMO group/individual contract be cancelled?

A. HIPAA requires all contracts to be guaranteed renewable and only cancelled under certain circumstances. The HMO regulation lists five reasons for which a contract may be cancelled, some of which are inconsistent with the guaranteed renewable provisions of HIPAA. To be consistent with HIPAA, a HMO contract or certificate can only be cancelled for provisions listed in 50 Il. Admin. Code 5421.111(1) & (2). The remaining three provisions of 50 Il. Admin. Code 5421.111 (3), (4), & (5) are no longer allowed for cancellation of a contract or certificate.