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BULLETIN 10-17

Date: June 3, 2010

To: Insurers, Nonprofit Health Service Plans and Health Maintenance Organizations ("Carriers")

Re: Contract Amendment Templates for Compliance with Patient Protection and Affordable Care Act--Coverage of Children to Age 26

In response to requests from the industry, the Maryland Insurance Administration has developed the attached amendment rider templates to assist carriers in drafting amendments to comply with the portions of the Patient Protection and Affordable Care Act and interim final regulations issued by the Department of Health and Human Service, under 45 CFR Parts 144, 146 and 147 that require children to be covered until their 26th birthday. These amendment templates are designed to be used for plan years that begin on or after September 23, 2010.

When drafting the attached amendment rider templates, the Maryland Insurance Administration assumed that the amendment riders would only be used with contracts or certificates that had been previously revised to comply with the requirements of §§15-403.1, 15-403.2 and 15-418 of the Insurance Article for individual and large group contracts and to COMAR 31.11.06.02B(12) for small group contracts.

Also, the attached amendment riders are drafted to meet the minimum requirements of Maryland and federal law. If a carrier wants to provide a more generous benefit, the template will require appropriate revision. For example, the amendment templates all indicate that coverage terminates on the child's 26th birthday. Many carriers currently terminate coverage at the end of the month or at the end of the year in which the limiting age is reached. While such a provision is acceptable, it is not reflected in the text of the attached amendment rider templates.

Finally, both §15-418 of the Insurance Article and the federal regulations prohibit a carrier from charging a different premium for a young adult child who is over age 19 and has not reached the limiting age from the premium charged for a child who is under age 19. No statement regarding

this requirement appears in the template, on the assumption that carriers are already complying with the requirements of §15-418 of the Insurance Article.

The amendment rider templates for the group market may be used with both the small group and large group contracts and certificates.

Questions about this bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

Brenda A. Wilson
Associate Commissioner
Life and Health Section

[COMPANY NAME]
Children's Coverage to Age 26 Amendment: Template for Individual Contracts

The provisions of your contract that define a "child" or that describe the eligibility requirements or causes of termination of a child's coverage are revised as follows to comply with 45 CFR Parts 144 and 147.

Eligibility

Any provision of the contract that indicates that a child's eligibility for coverage is based on any factor other than the relationship between the child and an individual covered under the contract is deleted. Any requirement that the child be financially dependent on an individual covered under the contract, that the child share a residence with an individual covered under the contract, that the child meet certain student status requirements, that the child be unmarried, or that the child not be employed, is deleted.

Termination

Any provision of the contract that indicates that a child's coverage will terminate when the child marries, ceases to be financially dependent on an individual covered under the contract, ceases to share a residence with an individual covered under the contract, ceases to be a full-time or part-time student, becomes employed full-time or part-time, or reaches the child's 25th birthday is deleted.

The contract is revised to provide that the coverage of a child will terminate on the date the child reaches his or her 26th birthday. The limiting age will not apply to a child, who at the time of reaching the limiting age, is incapable of self-support because of mental or physical incapacity that started before the child attained the limiting age, provided the incapacitated child is unmarried and dependent on an individual covered under the contract. Coverage of the incapacitated child will continue for as long as the child remains incapable of self-support because of a mental or physical incapacity, unmarried, and dependent on an individual covered under the contract.

Definition of Child

Any provision of the contract that defines or describes which children can be covered under the contract is revised to include a child who has not attained the child's 26th birthday irrespective of the child's:

- (1) Financial dependency on an individual covered under the contract;
- (2) Marital status;
- (3) Residency with an individual covered under the contract;

- (4) Student status;
- (5) Employment;
- (6) Satisfaction of any combination of the above factors.

Transition for Children Previously Denied Enrollment or Who Terminated Coverage Due to Attaining Limiting Age

The contract is amended to provide coverage from the first day of the first policy year occurring on or after September 23, 2010, if the child meets both of the following:

1. The child was terminated from coverage previously due to failure to satisfy the child definition of the contract or the child was prohibited from enrolling under the contract due to failure to meet the child definition in the contract; and
2. The child enrolls during the first 30 days of the first policy year occurring on or after September 23, 2010.

This amendment rider shall be effective [*insert effective date of amendment rider*].

Signature of Officer

[COMPANY NAME]

Children's Coverage to Age 26 Amendment: Template for Group Grandfathered Plans

The provisions of your contract or certificate that define a "child" or that describe the eligibility requirements or causes of termination of a child's coverage are revised as follows to comply with 45 CFR Parts 144, 146 and 147.

Eligibility

Any provision of the contract or certificate that indicates that a child's eligibility for coverage is based on any factor other than the relationship between the child and an individual covered under the contract or certificate is deleted. Any requirement that the child be financially dependent on an individual covered under the contract or certificate, that the child share a residence with an individual covered under the contract or certificate, that the child meet certain student status requirements, that the child be unmarried, or that the child not be employed, is deleted.

For plan years beginning before January 1, 2014, any requirement that the adult child not be eligible for other coverage, is amended to apply only if the adult child is eligible to enroll in an eligible employer-sponsored health plan, as defined in section 5000A(f)(2) of the Internal Revenue Code, other than a group health plan of a parent.

Termination

Any provision of the contract or certificate that indicates that a child's coverage will terminate when the child marries, ceases to be financially dependent on an individual covered under the contract or certificate, ceases to share a residence with an individual covered under the contract or certificate, ceases to be a full-time or part-time student, becomes employed full-time or part-time, or reaches the child's 25th birthday is deleted.

For plan years beginning before January 1, 2014, any provision of the contract or certificate that indicates that coverage of the adult child will cease due to eligibility of the adult child for other coverage, is revised to provide that termination of coverage will occur only if the adult child is eligible to enroll in an eligible employer-sponsored health plan, as defined in section 5000A(f)(2) of the Internal Revenue Code, other than a group health plan of a parent. For plan years beginning on or after January 1, 2014, any provision of the contract or certificate that indicates that coverage of the adult child will cease due to eligibility of the adult child for other coverage, is deleted.

The contract or certificate is revised to provide that the coverage of a child will terminate on the date the child reaches his or her 26th birthday. The limiting age will not apply to a child, who at the time of reaching the limiting age, is incapable of self-support because of mental or physical incapacity that started before the child attained the limiting age, provided the incapacitated child is unmarried and dependent on an individual covered under the contract or certificate. Coverage

of the incapacitated child will continue for as long as the child remains incapable of self-support because of a mental or physical incapacity, unmarried, and dependent on an individual covered under the contract or certificate.

Definition of Child

Any provision of the contract or certificate that defines or describes which children can be covered under the contract or certificate is revised to include a child who has not attained the child's 26th birthday irrespective of the child's:

- (1) Financial dependency on an individual covered under the contract or certificate;
- (2) Marital status;
- (3) Residency with an individual covered under the contract or certificate;
- (4) Student status;
- (5) Employment; or
- (6) Satisfaction of any combination of the above factors.

If the provision prohibits the adult child from being covered if the child is eligible for other coverage, the eligibility requirement prohibiting coverage for children eligible for other coverage is amended to apply only for plan years beginning before January 1, 2014 and only if the adult child is eligible to enroll in an eligible employer-sponsored health plan, as defined in section 5000A(f)(2) of the Internal Revenue Code, other than a group health plan of a parent.

Transition for Children Previously Denied Enrollment or Who Terminated Coverage Due to Attaining Limiting Age

The contract or certificate is amended to provide coverage from the first day of the first plan year occurring on or after September 23, 2010, if the child meets both of the following:

1. The child was terminated from coverage previously due to failure to satisfy the child definition of the contract or certificate or the child was prohibited from enrolling under the contract due to failure to meet the child definition in the contract or certificate; and
2. The child enrolls during the first 30 days of the first plan year occurring on or after September 23, 2010.

This amendment rider shall be effective [*insert effective date of amendment rider*].

Signature of Officer

[COMPANY NAME]

Children's Coverage to Age 26 Amendment: Template for Group Non-Grandfathered Plans

The provisions of your contract or certificate that define a "child" or that describe the eligibility requirements or causes of termination of a child's coverage are revised as follows to comply with 45 CFR Parts 144, 146 and 147.

Eligibility

Any provision of the contract or certificate that indicates that a child's eligibility for coverage is based on any factor other than the relationship between the child and an individual covered under the contract or certificate is deleted. Any requirement that the child be financially dependent on an individual covered under the contract or certificate, that the child share a residence with an individual covered under the contract or certificate, that the child meet certain student status requirements, that the child be unmarried, that the child not be eligible for other coverage, or that the child not be employed, is deleted.

Termination

Any provision of the contract or certificate that indicates that a child's coverage will terminate when the child marries, ceases to be financially dependent on an individual covered under the contract or certificate, ceases to share a residence with an individual covered under the contract or certificate, ceases to be a full-time or part-time student, is eligible for other coverage, becomes employed full-time or part-time, or reaches the child's 25th birthday is deleted.

The contract or certificate is revised to provide that the coverage of a child will terminate on the date the child reaches his or her 26th birthday. The limiting age will not apply to a child, who at the time of reaching the limiting age, is incapable of self-support because of mental or physical incapacity that started before the child attained the limiting age, provided the incapacitated child is unmarried and dependent on an individual covered under the contract or certificate. Coverage of the incapacitated child will continue for as long as the child remains incapable of self-support because of a mental or physical incapacity, unmarried, and dependent on an individual covered under the contract or certificate.

Definition of Child

Any provision of the contract or certificate that defines or describes which children can be covered under the contract or certificate is revised to include a child who has not attained the child's 26th birthday irrespective of the child's:

- (1) Financial dependency on an individual covered under the contract or certificate;
- (2) Marital status;

- (3) Residency with an individual covered under the contract or certificate;
- (4) Student status;
- (5) Employment;
- (6) Eligibility for other coverage; or
- (7) Satisfaction of any combination of the above factors.

Transition for Children Previously Denied Enrollment or Who Terminated Coverage Due to Attaining Limiting Age

The contract or certificate is amended to provide coverage from the first day of the first plan year occurring on or after September 23, 2010, if the child meets both of the following:

1. The child was terminated from coverage previously due to failure to satisfy the child definition of the contract or certificate or the child was prohibited from enrolling under the contract due to failure to meet the child definition in the contract or certificate; and
2. The child enrolls during the first 30 days of the first plan year occurring on or after September 23, 2010.

This amendment rider shall be effective [*insert effective date of amendment rider*].

Signature of Officer