

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Bruce R. Ramge
Director



Dave Heineman
Governor

October 9, 2014
CB-132

BULLETIN

SUBJECT: HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY POLICIES

This bulletin is directed to all insurers writing hospital indemnity policies or other fixed indemnity policies sold in the individual market in Nebraska. It is intended to provide guidance regarding the Department of Insurance's implementation and enforcement of the recently released rules and guidance from the federal government regarding hospital indemnity or other fixed indemnity policies. The guidance originates from the Centers for Medicare and Medicaid Services' (CMS) final rule on the Exchange and Insurance Market Standards for 2015 and Beyond issued on May 27, 2014, and other subsequent formal and informal guidance by CMS.

The federal rule and this bulletin apply only to hospital indemnity or other fixed indemnity insurance policies sold in the individual market. Neither of them apply to any other type or category of insurance that are listed separately as excepted benefits in the federal Public Health Service Act; e.g., disability income, specified disease insurance, accident insurance, etc., regardless of whether benefits under such coverage are paid as a fixed dollar amount.

In the federal rule and subsequent guidance, the federal government established the following conditions for a hospital indemnity or other fixed indemnity insurance policy sold in the individual market:

1. The benefits are provided only to individuals who attest, in their hospital indemnity or other fixed indemnity insurance application, that they have other health coverage that is considered minimum essential coverage within the meaning of 26 U.S. Code §5000A(f);
2. There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage;
3. The benefits are paid in a fixed dollar amount per period of hospitalization or illness and/or per service regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage; and

4. A notice is displayed prominently in the application materials in at least 14-point type that has the following language: "THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES."

New Sales Effective On or After January 1, 2015

For policies issued with an effective date beginning on or after January 1, 2015, the insurer must include in the initial insurance application a written attestation that the purchaser has minimum essential coverage as defined by the aforementioned rules and subsequent guidance issued by the federal government. This is a one-time attestation. The insurer shall not be required to confirm continuous major medical coverage by the purchaser. The Department recommends that the following attestation clause be placed above the signature line:

I hereby attest that I have major medical health insurance or Medicare that meets the requirements of minimum essential coverage as defined by the federal Affordable Care Act.

Additionally, federal guidance requires that the following notice must be displayed prominently in the application materials in at least 14-point type: "THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES."

Policies Issued Before January 1, 2015

For policies issued with an effective date before January 1, 2015, that do not require an application as a condition of renewal but that are guaranteed renewable or non-cancellable and only condition renewal on the timely payment of premiums, the aforementioned requirements do not apply. As denoted in the federal guidance, the federally mandated language and attestation are only applicable on an application form. If an insured is required for any reason to fill out a new application form, the federal mandates of attestation and disclosure contained in the application must occur.

Questions about this bulletin may be directed to Martin Swanson, Administrator for Health Policy, at 402-471-4648 or at martin.swanson@nebraska.gov.



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