



DOMESTIC/FOREIGN INSURERS BULLETIN NO. 40

To: All Health Insurers
RE: Prohibition of Rescissions Based Upon Post Claims Underwriting
Dated: September 8, 2010

18 Del. C. Chapter 84, Prohibition of Rescissions Based Upon Post Claims Underwriting, was enacted on August 30, 2010 and is effective on September 23, 2010. The statute bars termination of existing coverage when the insurer failed to complete medical underwriting and resolve all reasonable medical questions related to information on, with, or omitted from an application, unless the Department of Insurance grants approval in advance. The law applies to the broad-based health insurance contracts (such as those covering hospital and medical-surgical expenses) identified in §8403.

As the Title of the Chapter makes clear and the Section headings reinforce, this law protects against insurers who, despite not diligently performing health underwriting, later attempt to terminate existing health coverage based on the answers to health questions on an application.

Effective September 23, 2010, prior approval by the Commissioner or her designee is required before a health insurer may rescind, cancel or limit existing coverage based upon written health or medical information which was either:

- submitted on or with the application, or
- omitted from the application.

The prior approval process shall consist of:

1. The insurer applying to the Department of Insurance for approval of the proposed rescission, cancellation or limitation by submitting the information to the Department of Insurance as required and providing a copy of that information to the insured¹.
2. The insured having seven business days from receipt to respond and submit relevant information to the Department of Insurance with respect to the proposed action.
3. The Department of Insurance issuing a written decision with respect to the proposed action by the later of
 - a. 15 business days after the insurer applied for approval, or
 - b. 15 business days after the insured responded and submitted information.

S/ kws

KAREN WELDIN STEWART, CIR-ML
COMMISSIONER of INSURANCE

¹ With respect to the prior approval process, 'insured' is understood to include reference to any representative the insured may designate to be involved.