

EMPLOYEES' GUIDE TO HIPAA RIGHTS REGARDING HEALTH INSURANCE

Eligible employees of both small and large employers receive certain protections under federal and North Carolina law.

WHO IS AN ELIGIBLE EMPLOYEE?

The term "employee" is defined (under North Carolina General Statutes) as a non-seasonal person who works on a full-time basis, with a normal work week of 30 or more hours and who is otherwise eligible for coverage, but does not include a person who works on a part-time, temporary, or substitute basis.

WHAT ARE SMALL GROUPS?

Small employer groups are those with 1 to 50 employees.

WHEN IS SMALL GROUP HEALTH INSURANCE AVAILABLE?

Generally, insurers that sell small group policies must do so on a "**guaranteed issue**" basis, which means that no small group can be turned down. Insurers must cover all employees and dependents who are eligible. Employers that have between 2 and 50 employees are guaranteed the right to purchase any small group health plan an insurance carrier offers to other small employers in the same geographic area.

Small group health insurance is "**guaranteed renewable.**" Insurers may impose certain conditions for the coverage to be renewed, such as requiring groups to meet minimum standards for employee participation and minimum employer premium contributions. Insurers may refuse to renew coverage for fraud or for nonpayment of premium.

CAN MY HEALTH AFFECT MY COVERAGE OR MY EMPLOYER'S ABILITY TO GET COVERAGE?

Small employers cannot be refused coverage because of the health status of their employees or employees' dependents. However, a small group can be charged higher premiums, within limits established by law, based on the health, risk, and demographic characteristics of the group. By law, North Carolina limits the difference in premiums and annual increases that can be charged to small groups.

Full time employees and their dependents who enroll during their initial enrollment period cannot be refused coverage because of their health status.

WHAT ABOUT LARGE EMPLOYERS?

In North Carolina, large employer groups are those with more than 50 employees.

Large employer groups are entitled to guaranteed renewal rights and are subject to the same protections regarding pre-existing conditions and creditable coverage as small employer groups. If the large group is accepted, all eligible employees and dependants

must be accepted for coverage. However, large employer groups are not entitled to purchase coverage on a guaranteed issue basis, and the restrictions that apply to premium rates for small groups do not apply to large groups.

WHAT IF I ENROLL AFTER MY INITIAL ENROLLMENT PERIOD EXPIRES?

The insurer may treat you as a “late enrollee” and limit your coverage accordingly. The insurer may exclude late enrollees from coverage or impose a pre-existing condition limitation for up to 18 months, or impose a combination of the two for up to 18 months. The insurer cannot consider the individual’s health when applying restrictions for late enrollment.

Please note that large employer groups may choose not to accept late enrollees. However, if they do accept any late enrollees they must accept all of them.

You may not be considered a late enrollee if you or your dependents lose other group coverage and meet special enrollment conditions. To learn more about special enrollment options, please refer to the group certificate or contact the insurer.

HOW LONG MUST I WORK IN ORDER TO BE ELIGIBLE FOR HEALTH INSURANCE?

The waiting period can be no longer than 90 days from the first day you become an eligible employee.

WHAT IF I HAVE PRE-EXISTING HEALTH CONDITIONS?

During the pre-existing conditions limitation period a group health plan may refuse to pay for treatment of health conditions you had before you enrolled.

Both federal and state laws place time limits on pre-existing condition exclusion periods. A pre-existing condition is a health condition for which you received medical advice or treatment within six months prior to enrolling. The maximum pre-existing condition waiting period for timely enrollees is 12 months; however, an 18-month pre-existing condition waiting period may be imposed on late enrollees.

WHAT IF I CHANGE JOBS?

For many years, people have been concerned about changing jobs and the effects it has on their health insurance. Previously, medical conditions covered under a prior plan often were not covered under replacement plans. HIPAA’s increased portability guarantees that insureds get “credit” for the time covered under a previous plan, provided there is no lapse of more than 63 days. Specifically, insurers must reduce any pre-existing condition limitation periods by the amount of time the insured was covered under prior creditable coverage.

Any coverage under a group plan, individual health insurance policy, Medicare or Medicaid, or North Carolina’s Health Choice program or comparable children’s’ health plan offered by another state is considered “**creditable coverage**”. As proof of coverage, employers and/or insurers are required to provide a certificate of creditable

coverage to insureds to document the duration of their coverage. That certificate is used to show a new health plan how much pre-existing credit they are entitled to.

Benefits for pre-existing medical conditions cannot be denied under any plan's pre-existing condition limitation provision if the insured has had creditable coverage for at least 12 months without a break (or lapse) in coverage of more than 63 days.

Coverage offered by a new employer may be different than your prior coverage. In addition, the premium cost may vary. On the other hand, the new employer may not offer coverage at all, as the law does not require employers to offer health insurance. In this case, you may need to consider options such as COBRA, state continuation, individual health insurance or conversion policies. You may call the Department of Insurance or visit our web site to learn more about some of these options.

How to Reach Us

You can reach the North Carolina Department of Insurance (NCDOI), Consumer Services Division at:

800-546-5664 (toll free)
919-733-2032 (outside of North Carolina)
919-715-0319 (TDD) Telephone Device for Deaf Caller
919-733-0085 (Fax)

You can find additional information including our complaint form on the North Carolina Department of Insurance Web site at **www.ncdoi.com**.

The address for the North Carolina Department of Insurance, Consumer Services Division is:

**Consumer Services Division
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201**

Related Publications Available from the NCDOI

Guide To Health Insurance: The Consumer's Right To Know
Guide To State Continuation

Where Can I Find Additional Information?

Health Care Financing Administration (HCFA)

- call 1-404-562-7500
- visit the HIPAA Online web site at hipaa.hcfa.gov

US Department of Labor, Pension and Welfare Benefits Administration (for COBRA questions)

- call 1-800- 998-7542
- visit USDOL's web site at www.dol.gov/dol/pbwa