south dakota department of labor and regulation

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Bulletin 13-03

To: Health Insurance Issuers

From: Merle Scheiber, Director

Date: May 23, 2013

Re: Health Insurance Market Regulations

This bulletin addresses multiple topics concerning the health insurance industry.

Agent Churning

For health insurance coverage issued effective January 1, 2014 or thereafter, health underwriting will no longer be allowed. This change in underwriting makes the replacement of health insurance between issuers significantly easier. This bulletin serves as a reminder that all policies sold whether inside or outside the exchange continue to be subject to all advertising and solicitation standards, including the requirement that sales be suitable. Moving business between companies primarily for purposes of commission enhancement is considered churning and would not meet the solicitation standards required of agents.

Rating Requirements applicable to religious employers

Questions have arisen regarding the rating requirements applicable to religious employers that have self-certified their eligibility for the religious exemption to the federal contraceptive mandate. Under the currently proposed federal regulations, religious employers may not have the contraceptive coverage that is made available reflected in the group premium and requires a separate policy to be issued to the participants and beneficiaries. Given that the policy issued providing only the contraceptive benefits is an excepted benefit, the contraceptive coverage would not be part of either the issuer's individual or small group single risk pool.

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SDCL 58-18-7.18 – Option to Decrease Benefits

SDCL 58-18-7.18 requires insurers subject to continuation requirements to offer eligible beneficiaries the option of decreasing coverage. This statutory requirement can in some circumstances result in coverage that is not in compliance with federal requirements under the Patient Protection and Affordable Care Act. Therefore issuers will not be required to provide the offer of decreased coverage as otherwise required by SDCL 58-18-7.18 to eligible beneficiaries offered continuation on or after January 1, 2014.

Preventive Services

A group health plan, or a health insurance issuer offering group or individual health insurance coverage, shall provide coverage for all of the preventive items and services described in ARSD 20:06:54, and may not impose any cost-sharing requirements such as a copayment, coinsurance, or deductible. A health insurance issuer shall at least annually at the beginning of each new plan year or policy year, whichever is applicable, revise the preventive services consistent with the most recent recommendations of the United States Preventive Services Task Force, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention and the guidelines with respect to infants, children, adolescents, and women, evidenced-based preventive care and screenings by the Health Resources and Services Administration.

Incentives for Nondiscriminatory Wellness Programs in Group Health Plans.

The proposed regulations, Incentives for Nondiscriminatory Wellness Programs in Group Health Plans, have not yet been finalized as of the date of this bulletin. The Division will approve filings based on the proposed regulations.