

Bulletin 22-01

To: Health Insurance Issuers
From: Larry Deiter, Director
Date: April 19, 2022
Re: Extension of Transition Policies

In conjunction with the March 23, 2022, announcement¹ from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid (CMS)/Center for Consumer Information and Oversight (CCIIO), South Dakota will permit individual and small group market issuers that have renewed policies under the transitional policy continually since 2014 to renew such coverage for policy year starting on or before October 1, 2022. CMS's approach for this policy extension is ongoing until announced otherwise. South Dakota will follow this approach and allow participation in the extension of transition plans until announced otherwise.

The extension authorization issued by CMS/CCIIO continues the approach started on November 14, 2013,² stating health insurance coverage in the individual and small group market renewed for a policy year starting between January 1, 2014, and October 1, 2014, and associated group health plans of small businesses will not be considered out of compliance with the market reforms specified below.

- Section 2701 – Rating Reforms
- Section 2702 – Guaranteed availability of coverage
- Section 2703 – Guaranteed renewability of coverage
- Section 2704 – Prohibition on pre-existing condition exclusions or other discrimination-based health status (individual only – HIPAA applies to small group)
- Section 2705 – Relating to prohibition of discrimination against individual participants and beneficiaries based on health status
- Section 2706 – Relating to non-discrimination in health care
- Section 2707 – Relating to comprehensive health insurance coverage
- Section 2709 – Participation in clinical trials

CMS issued similar extensions of this transition policy on March 4, 2014; Feb. 29, 2016; Feb. 23, 2017; April 9, 2018, March 25, 2019, Jan. 31, 2020, and Jan. 19, 2021.³

Issuers wishing to operate under this transition guidance must submit their intentions to the Division of Insurance as an Informational Filing through SERFF by **May 9, 2022, and by May 1 in subsequent years**. With this filing, please provide the Division with the number of individuals impacted in their respective markets, along with the proposed transition plan. Issuers may mark this filing as confidential.

Issuers who plan to discontinue their transition policies under the previously issued guidance must submit this intention to the Division as an informational filing through SERFF by **May 9, 2022, and by May 1 in subsequent years**. This filing shall also contain the number of individuals impacted in their respective markets.

¹ Guidance referenced: <https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2023-and-later-benefit-years.pdf>

² November 2013 Letter to Commissioners: <https://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.pdf>

³ 2014 extension: <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/transition-to-compliant-policies-03-06-2015.pdf>

2016 extension: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/final-transition-bulletin-2-29-16.pdf>

2017 extension: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Extension-Transitional-Policy-CY2018.pdf>

2018 extension: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Extension-Transitional-Policy-Through-CY2019.pdf>

2019 extension: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Limited-Non-Enforcement-Policy-Extension-Through-CY2020.pdf>

2020 extension: <https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2021.pdf>

2021 extension: <https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2022.pdf>