Vermont Department of Banking, Insurance, Securities and Health Care Administration

HCA Bulletin 113 – Definition of Creditable Coverage

Vermont law requires both non-group and small group carriers to waive pre-existing condition exclusions for those applicants who produce evidence of 9 months of creditable coverage. 8 V.S.A. § 4080a(g) and 4080b(g). This language limits creditable coverage to coverage that is substantially equivalent to the common health plan approved by the commissioner.

Vermont law also states that "[f]or an eligible individual, as such term is defined in section 2741 of Title XXVII of the Public Health Service Act, a registered non group carrier shall not limit coverage of preexisting conditions." 8 V.S.A. § 4080b(g). This federal definition of an eligible individual, which was enacted by the Health Insurance Portability and Accountability Act (HIPAA), requires, among other things, that the individual have at least 18 months of prior creditable coverage. HIPAA, and the federal regulations adopted pursuant to HIPAA, however, provide a more expansive definition of creditable coverage than Vermont law.

HIPAA defines creditable coverage to include any of the following: a group health plan, such as one obtained through an employer or a spouse's employer; health insurance coverage, including individual coverage; Medicare and Medicaid; CHAMPUS/ TriCare; a medical program of the Indian Health Service Act or of a tribal organization; a state health benefits high risk pool; the Federal Employees Health Benefits Program; a public health plan; and a health benefit plan under section 5(e) of the Peace Corps Act. This definition of creditable coverage includes any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer, which includes, but is not limited to, comprehensive non-group, small group and large group policies, basic hospital expense policies, basic medical-surgical expense policies, and major medical expense policies. **This definition of creditable coverage is applicable when applying the HIPAA rules concerning pre-existing condition exclusions to applicants for non-group, small group and large group insurance.**

This Bulletin reiterates the interpretation of these provisions of Vermont statute and the requirement imposed by HIPAA and the HIPAA regulations. All carriers are required to actively solicit information about prior coverage from applicants for health insurance in order to identify those applicants who either meet the federal definition of an eligible individual or meet the requirements of Vermont law or federal law for a waiver of preexisting condition exclusions. Accordingly, all health insurance applications must contain specific questions designed to elicit information about health insurance coverage for the applicant or the applicant's dependents, including coverage of any of the above listed types of coverage, as well as the time period during which such coverage was in place.

All major medical carriers are directed to notify the Department, no later than three weeks from the issuance of this bulletin, of the manner in which it will comply with these requirements. If you have questions concerning this Bulletin, please contact Cassandra Edson at (802) 828-2900.

John P. Crowley, Commissioner
Dept. of Banking, Insurance, Securities & Health Care Administration