

Bulletin #94

June 14, 1989

HEALTH INSURANCE POLICIES FOR SOLE PROPRIETORS
AND PARTNERS

In 1988, the Vermont legislature enacted a law which makes workers' compensation insurance available to sole proprietors and partners. See 21 V.S.A., Chapter 9. The purpose of the legislation is not to mandate coverage. Rather, the legislature merely provided certain self-employed individuals with an opportunity to obtain such coverage.

The Department is aware that certain health insurers have policies which exclude coverage when an individual is eligible for workers' compensation coverage and an injury or a condition requiring treatment is work-related. Those policy provisions should not apply to sole proprietors and partners who, by virtue of 21 V.S.A., Chapter 9, are eligible for workers' compensation coverage. Application of the workers' compensation exclusion in that manner would, in effect, convert the optional aspect of this statute into a mandate.

Health insurance policies which contain a workers' compensation exclusion that is applied to sole proprietors or partners violate 8 V.S.A., Section 4724, the state's unfair trade practices statute. The application of the exclusion in such a manner constitutes the sale of a facially unsuitable insurance policy (8 V.S.A., Section 4724(16)). In addition, the application of the exclusion to policyholders may also violate the prohibition against the misrepresentation of products (8 V.S.A., Section 4724(13)).

Accordingly, the Commissioner advises that the application of a workers' compensation exclusion by health insurers, including health maintenance organizations and non-profit medical and hospital service corporations, to sole proprietors and partners merely eligible for workers' compensation insurance coverage will be deemed a violation of 8 V.S.A., Section 4724.

Please contact Thomas Prindiville, Insurance Analysis Chief or John Liebenow, Senior Insurance Analyst at (802) 828-3301 if you have any questions.


Gretchen Babcock, Commissioner