

Vermont Insurance Division

BULLETIN 116 Actions of the 1996-97 Legislative Session which Affect Insurers Doing Business in Vermont

September 1, 1997

Seven bills were passed by the Vermont Legislature and signed by the Governor which will affect insurers doing business in Vermont. The following is a list and short description of each of these bills. Where required, the Department will propose regulations or issue bulletins to further explain or define insurer and Department operations under the new legislation.

This bulletin is intended, to provide general information and alert interested parties to changes that may be necessary in their operations. Any insurer or other party who may be affected by any of these laws is urged to get a copy of the law from:

Legislative Counsel
115 State Street
Drawer 33
Montpelier, Vermont 05633-5301
(802) 828-2231

Or a non-official version from the Vermont Legislative Home Page web site at:

<http://www.leg.state.vt.us/>

Act 24 An Act Relating to Health Insurance and Federal Law: This act orders health insurers, hospital or medical service corporations and health maintenance organizations to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The act also amends Vermont's individual and small group health insurance laws. Health insurers are strongly urged to review this act in detail. The Department will issue guidelines for this act.

Act 49 An Act Relating to Reciprocal Insurers and Captive Insurance Companies: This act permits captive insurance companies to form as reciprocal insurers. It reduces the number of organizers of a reciprocal insurer from 25 to 3, increases the bonding requirement to \$250,000 and requires a minimum surplus of \$1,000,000. The act also authorizes single owner captive insurance companies to include the risks of strategic business partners in their captive insurance programs. This concept is defined in the bill as controlled unaffiliated business which are permitted to be insured by the captive insurer as long as the captive has an existing contractual relationship with that business and has control of the risk management function of that business. Finally, the act extends confidentiality protections to information on file with the Department pertaining to captive insurance companies and authorizes an additional Examiner III position in the Department.

Act 54 An Act Relating to Reorganization Formations, Hospital and Medical Service Corporations, and Health Maintenance Organizations: This act makes a number of changes to Vermont laws regulating the formation, conversion and operation of hospital and medical service corporations. The act establishes the prudent investor rule for medical service corporations and hospital service corporations and requires that these insurers obtain the Commissioner's approval of their investment guidelines, including any subsequent amendments. The act further requires the creation and public discussion of annual 10-year health expenditure projections. Any payer that provides coverage for more than five percent of the Vermont population is required to participate in this discussion. The act also requires the Department to issue rules implementing the mutual holding company law.

Act 25 An Act Relating to Health Insurance for Mental Health and Substance: Abuse Disorders This act requires health insurance plans provide coverage for treatment of a mental health condition and shall not establish any rate, term or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to a physical health condition. Any deductible or out-of-pocket limits required under a health insurance plan shall be comprehensive for coverage of both mental health and physical health conditions. It permits use of care management for mental health and substance abuse conditions, even if the insurance plan is otherwise not managed or managed to a lesser degree, provided that the organization managing the care is in compliance with any applicable rules adopted by the Commissioner. These rules include regulation 95-2 (Regulation of Mental Health Utilization Review Agents) and rule 10 (Quality Assurance Standards and Consumer Protection for Managed Care Plans). In cases where employees have options within a plan, such as a point of service plan, at least one option must provide parity. The Department will evaluate compliance with the requirements of this law as part of the rate and form approval process. In cases where there are different levels of management, the Department will obtain an actuarial opinion of benefit equivalence. This law applies only to those insurance plans that pay for the treatment of health conditions. It does not apply to other health insurance products such as disability insurance. The act also requires mental health utilization review agents to submit a \$200 fee to the Department with its initial registration application and annually thereafter.

Act 52 An Act Relating to Health Insurance Coverage of Medically Necessary Care and Treatment of Cancer: This act requires health insurance plans approved in Vermont to provide coverage for medically necessary growth cell stimulating factor injections taken as part of a prescribed chemotherapy regimen. This mandate became effective upon passage and applies to any health insurance plan offered or renewed on or after June 26, 1997.

Act 14 An Act Relating to Health Insurance and Coverage of Diabetes: This act mandates coverage of equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin dependent diabetes, insulin using diabetes, gestational diabetes and noninsulin using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. The

insurer may require that both the prescribing professional and the care giver be under contract with the insurer. Benefits may be provided under a rider or a drug card, but are subject to the same dollar limits, deductibles, and coinsurance factors as the underlying policy. This act requires insurers to pay for insulin.

Act 13 An Act Relating to Medicare Supplemental Health Insurance: This act addresses two areas: it creates a public informational hearing process for rate increases and mandates community-rating for Medicare supplement insurance policies. If requested by 25 or more policyholders who are affected by a proposed rate increase, the Department will hold a public informational hearing. The Commissioner may not approve a rate increase until after this hearing. Note that this is an informational hearing, and is not subject to Vermont's administrative procedures act. Although the law does not establish a time frame for the Commissioner to hold a hearing, the Department anticipates that the hearing will be held within 30 days of a request. Carriers are welcome to attend the hearing, but are not required to do so. This hearing process applies to any policy sold or renewed after September 1, 1997. 8 V.S.A. 4080e requires that all Medicare supplement insurance policies sold in Vermont be community rated. There is a two year phase-in period. During 1998, rates may vary from the community rate by up to 40%. During 1999, rates may vary by no more than 20%. For details of Vermont's community rating requirements, see Regulation 91-4A. This requirement shall apply to all policies sold in Vermont, including pre-standard plans.

Elizabeth R. Costle

COMMISSIONER