State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, *Governor*
Mark V. Afable*, Commissioner*

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
ociinformation@wisconsin.gov
oci.wi.gov

DATE: March 26, 2020

TO: All Insurers Authorized to Write Health Insurance in Wisconsin

FROM: Mark V. Afable, Commissioner of Insurance

SUBJECT: Extension of Transitional Health Insurance Plans Through December 31, 2021

On January 31, 2020, the Centers for Medicare and Medicaid Services (CMS) released a bulletin allowing states to permit insurers to renew transitional policies as long as such policies come into compliance with certain specified market reforms by January 1, 2022.[1] Specifically, the new guidance on transitional plans extends the use of transitional plans through December 31, 2021. In light of this new federal guidance, the Office of the Commissioner of Insurance (OCI) is issuing this bulletin to allow for the extension of these plans as outlined by CMS.

There is a potential that in the 2021 plan year insurers will again face an issue of policies that end prior to December 31, 2021, or if renewed in 2021 will extend beyond December 31, 2021. CMS's guidance states that policies must be fully ACA compliant by January 1, 2022. To achieve this, CMS and OCI will allow a policy to renew with a term that is less than 12-months or will allow an option to renew policies early in order to facilitate the transition to fully ACA-compliant policies starting January 1, 2022. For policies that end prior to December 31, 2021, insurers may renew policies with a shorter term in order to avoid a gap in coverage prior to the 2022 plan year.

OCI encourages insurers to work with small employers and consumers to ensure smooth transitions.

Insurers may submit rate revisions for 2020 and 2021 renewals within 30 days after the rates become effective using one of the following methods:

1. Simplified Rate Filing: If a complete rate filing was submitted for the affected product(s) in 2013 or later and the insurer wishes to change rates by an annualized trend amount equal to or less than the amount indicated in the most recent complete rate filing, a simplified filing process may generally be used. Insurers electing this option must submit through a filing in SERFF a letter indicating (1) the affected products, (2) the annualized trend amount filed in the most recent complete rate filing, (3) the trend change requested, and (4) the rate change effective date(s). The letter must reflect any incremental implementation of the annualized trend change.

[1]CMS guidance can be found at https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2021.pdf

2. Complete Rate Filing: If no rate filing was submitted for the affected product(s) in 2013 or later, or the insurer wishes to increase rates by an amount greater than the annualized trend amount filed in the most recent complete rate filing, a complete filing must be submitted. The filing must fulfill all requirements for transitional rate filings. Detailed filing requirements are available on the OCI web site at: https://oci.wi.gov/Pages/OCIForms/CompHealthRateFilingNGF.aspx

In addition, OCI requires insurers offering individual transitional plans to provide individual insureds the "Important Consumer Notice."[2] This notice shall be provided to the individual as a cover letter to the federally required notice when a transitional policy is renewed, nonrenewed, or canceled. The OCI will monitor insurers to ensure that during the shorter term gap coverage period, premium and cost-sharing are continued without resetting or rating if the only change is coverage to avoid a gap through December 31, 2021.

Insurers should be aware that legal and policy changes at the state and federal levels may cause transitional plans to be unavailable in Wisconsin after December 31, 2021.

Any questions concerning this bulletin should be directed to Lisa Brandt at Lisa.Brandt@wisconsin.gov.

[2] The "Important Consumer Notice" can be found here.