WEST VIRGINIA CODE: §33-16D-4

§33-16D-4. Discrimination prohibited; guaranteed issue; filing with commissioner; violations and penalties.

(a) All carriers subject to this article are strictly prohibited from marketing their product to a specific group, legal occupation, locale, zip code, neighborhood, race, religion, or any discriminatory group.

(b) For plan years beginning after June 30, 1997, in which the plan has, on the first day of the plan year, at least two enrollees who are current employees, each carrier shall accept every small employer that applies for coverage under a health benefit plan, unless such health benefit plan is made available only through a bona fide association, and consistent with public law 104-191 (Public Health Service Act section 2711 (a) (1) (B)), shall accept for enrollment in the plan every employee of the small employer, including dependents, when an employee or dependent first becomes eligible to enroll under terms of the plan and under the rules of the carrier that are uniformly applicable to small employers. This subsection shall not apply to:

(1) A network plan if the carrier:

(A) Limits coverage to a small employer's employees and dependents who reside, live or work in the carrier's service area; or

(B) Obtains the commissioner's approval to deny coverage in its service area due to the carrier's lack of capacity for additional enrollees, but only if the carrier denies coverage uniformly to all small employers without regard to their claims experience or that of their employees and dependents or to any health status-related factor relating to employees and their dependents. A carrier may not offer small group coverage in the same service area for one hundred eighty days after the date coverage is denied under this paragraph; or

(2) A carrier that obtains the commissioner's approval to deny coverage due to the carrier's insufficient financial reserves for additional coverage, but only if the carrier denies coverage uniformly to all small employers, consistent with all requirements of this chapter and without regard to the claims experience of the small employers and their employees and dependents or to any health status-related factor relating to employees and their dependents. A carrier may not offer small group coverage for one hundred eighty days after the date coverage is denied under this subdivision or until the carrier has obtained the commissioner's approval of the level of its reserves for additional coverage, whichever is later.

(c) All carriers subject to this article shall file any marketing information upon request of the commissioner. The commissioner shall review said information and shall have the authority to take appropriate action to eliminate discriminatory marketing practices, including

WV Legislature

imposing fines on violators of this section of not more than $10,000. Upon a second violation of this section, the commissioner shall have the authority to revoke the violator's license to transact insurance.

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