WEST VIRGINIA CODE: §33-16D-7

§33-16D-7. Renewability of coverage; exceptions.

(a) A health benefit plan subject to this article shall be renewable to all eligible employees at the option of the small employer: Provided, That a carrier may refuse to renew a health benefit plan for plan years beginning on or before June 30, 1997, for any of the following reasons:

(1) Nonpayment of required premiums;

(2) Fraud or misrepresentation by the small employer or by the insured individual;

(3) Noncompliance with plan provisions;

(4) The number of individuals covered under the plan is fewer than the number or less than the percentage of eligible individuals necessary pursuant to the percentage requirements under the plan; or

(5) The small employer is no longer actively engaged in the business in which it was engaged on the effective date of the plan.

(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, a health benefit plan shall be renewable to all eligible employees at the option of the small employer, and a carrier may refuse to renew a health benefit plan only for one of the following reasons:

(1) Nonpayment of required premiums;

(2) Fraud or misrepresentation of material fact by the small employer;

(3) The number of individuals covered under the plan is fewer than the number or less than the percentage of eligible individuals necessary pursuant to the percentage requirements under the plan;

(4) The carrier ceases to offer health benefit plans to small employers as provided in subsection (d) of this section;

(5) For coverage offered under a network plan, a carrier no longer has any enrollees of the network plan who live or work in the plan's service area, and the carrier would deny coverage under the network plan to a small employer with no eligible employees or dependents in its service area; or

(6) For health benefit plans offered only through a bona fide association, the small employer ceases to be a member of the association, if plans are terminated uniformly without respect

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to any health status-related factor relating to any covered employee, association member or dependent. With respect to coverage provided to a small employer only through a bona fide association, a reference to "policyholder" or "plan sponsor" is deemed to include a reference to the small employer.

(c)(1) For plan years beginning on or before June 30, 1997, a small employer carrier may cease to renew all plans under a class of business. Upon the small employer's election of nonrenewal, the carrier shall provide notice of such election not to renew to all affected health benefit plans and to the commissioner in each state in which an affected insured individual is known to reside at least ninety days prior to termination of coverage.

(2)A carrier which exercises its right to cease to renew all plans in a class of business pursuant to this subsection may not:

(A) Establish a new class of business for a period of five years after the nonrenewal of the plans without prior approval of the commissioner; or

(B) Transfer or otherwise provide coverage to any of the employers from the nonrenewed class of business unless the carrier offers to transfer or provide coverage to all affected employers and eligible employees without regard to case characteristics, claim experience, health status or duration of coverage.

(d) 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, a carrier may elect to discontinue offering health benefit plans:

(1) Of a particular type, if the carrier gives notice to each small employer affected and to all covered employees and dependents at least ninety days before the date coverage is discontinued. The carrier shall offer each such small employer the option to purchase all other health benefit plans offered by the carrier to small employers. In electing to discontinue health benefit plans of a particular type and in offering coverage under the preceding sentence, the carrier shall act uniformly without regard to small employers' claims experience or any health status-related factor relating to any covered employee or dependent or new employees or dependents who may become eligible for coverage; or

(2) Of all types if the carrier gives notice to the commissioner, to each small employer affected and to all covered employees or members and dependents at least one hundred eighty days before the date such plans are discontinued. The carrier shall discontinue all, and not renew any, health benefit plans in the small group market. The carrier may not issue any health benefit plan to a small employer in this state for a five-year period beginning on the date the last discontinued health benefit plan is not renewed.

(e) 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, a carrier may modify a health benefit plan upon its renewal only if the modification is consistent with the provisions

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of this article and effective on a uniform basis among all individuals with that policy form. Except for coverage available only through an association, any modification shall be made effective on a uniform basis among all small employers with that product.

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