

§2850-B. Guaranteed renewal; cessation of business**1. Application.** This section applies to:

A. Individual health plans subject to section 2736-C; and [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

B. Group and blanket medical insurance contracts subject to chapter 35 except:

(1) Medicare supplement policies subject to chapter 67; and

(2) Contracts designed to cover specific diseases, hospital indemnity or accidental injury only. [PL 1999, c. 256, Pt. L, §10 (AMD).]

[PL 1999, c. 256, Pt. L, §10 (AMD).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carrier" means an insurance company, nonprofit hospital and medical service organization or health maintenance organization authorized to issue group health plans in this State. [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

B. "Individual market" means individual or group policies or contracts subject to section 2736-C. [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

C. "Large group market" means groups not subject to section 2736-C or 2808-B. [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

D. "Small group market" means groups subject to section 2808-B. [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

[PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

3. Cancellation of coverage; renewal. Coverage may not be rescinded for an individual, a group or eligible members and their dependents in those groups once an individual, a group or eligible members and their dependents in those groups are covered under an individual or group health plan, except that this subsection does not prohibit rescission with respect to a covered individual, a group or eligible members and their dependents in those groups who have performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact as prohibited by the terms of the individual or group health plan to the extent consistent with section 2411. Such coverage may not be cancelled, and renewal must be guaranteed to all individuals, to all groups and to all eligible members and their dependents in those groups except:

A. When the policyholder or contract holder fails to pay premiums or contributions in accordance with the terms of the contract or the carrier has not received timely premium payments; [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

B. For fraud or intentional misrepresentation of material fact by the policyholder or contract holder; [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

C. With respect to coverage of individuals under a group policy or contract, for fraud or intentional misrepresentation of material fact on the part of the individual or the individual's representative; [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

D. In the large or small group market, for noncompliance with the carrier's minimum participation requirements, which may not exceed the participation requirement when the policy was issued; [PL 2007, c. 199, Pt. C, §1 (AMD).]

E. With respect to a managed care plan, as defined in section 4301-A, if there is no longer an insured who lives, resides or works in the service area; [RR 2001, c. 1, §34 (COR).]

F. When the carrier ceases offering large or small group health plans in compliance with subsection 4 and does not renew any existing policies in that market; [PL 1997, c. 445, §30 (NEW); PL 1997, c. 445, §32 (AFF).]

F-1. When the carrier ceases offering individual health plans in compliance with section 2736-C, subsection 4 and does not renew any existing policies in that market; [PL 2007, c. 199, Pt. C, §2 (NEW).]

G. When the carrier ceases offering a product and meets the following requirements:

(1) In the large group market:

(a) The carrier provides notice to the policyholder and to the certificate holders at least 90 days before termination;

(b) The carrier offers to each policyholder the option to purchase any other product currently being offered in the large group market; and

(c) In exercising the option to discontinue the product and in offering the option of coverage under division (b), the carrier acts uniformly without regard to the claims experience of the policyholders or the health status of the certificate holders or their dependents or prospective certificate holders or their dependents;

(2) In the small group market:

(a) The carrier replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2808-B;

(b) The superintendent finds that the replacement is in the best interests of the policyholders; and

(c) The carrier provides notice of the replacement to the policyholder and to the certificate holders at least 90 days before replacement, including notice of the policyholder's right to purchase any other product currently being offered by that carrier in the small group market pursuant to section 2808-B, subsection 4; or

(3) In the individual market:

(a) The carrier replaces the product with a product that complies with the requirements of this section, including renewability, and with section 2736-C;

(b) The superintendent finds that the replacement is in the best interests of the policyholders; and

(c) The carrier provides notice of the replacement to the policyholder and, if a group policy subject to section 2736-C, to a certificate holder at least 90 days before replacement, including notice of the policyholder's or certificate holder's right to purchase any other product currently being offered by that carrier in the individual market pursuant to section 2736-C, subsection 3; [PL 2011, c. 238, Pt. F, §1 (AMD).]

H. In renewing a large group policy in accordance with this section, a carrier may modify the coverage, terms and conditions of the policy consistent with other applicable provisions of state and federal laws as long as the modifications are applied uniformly to all policyholders of the same product; or [PL 2003, c. 428, Pt. A, §1 (AMD).]

I. In renewing an individual or small group policy in accordance with this section, a carrier may make minor modifications to the coverage, terms and conditions of the policy consistent with other applicable provisions of state and federal laws as long as the modifications meet the conditions specified in this paragraph and are applied uniformly to all policyholders of the same product.

Modifications not meeting the requirements in this paragraph are considered a discontinuance of the product pursuant to paragraph G.

(1) A modification pursuant to this paragraph must be approved by the superintendent. The superintendent shall approve the modification if it meets the requirements of this section.

(2) A change in a requirement for eligibility is not a minor modification pursuant to this paragraph if the change results in the exclusion of a class or category of enrollees currently covered.

(3) Benefit modifications required by law are deemed minor modifications for purposes of this paragraph.

(4) Benefit modifications other than modifications required by law are minor modifications only if they meet the requirements of this subparagraph. For purposes of this subparagraph, changes in administrative conditions or requirements specified in the policy, such as preauthorization requirements, are not considered benefit modifications.

(a) The total of any increases in benefits may not increase the actuarial value of the total benefit package by more than 5%.

(b) The total of any decreases in benefits may not decrease the actuarial value of the total benefit package by more than 5%.

(c) For purposes of the calculations in divisions (a) and (b), increases and decreases must be considered separately and may not offset one another.

(5) A carrier must give 60 days' notice of any modification pursuant to this paragraph to all affected policyholders and certificate holders. [PL 2011, c. 90, Pt. F, §3 (AMD).]

[PL 2019, c. 5, Pt. A, §17 (AMD).]

4. Cessation of business. Carriers that provide health plans in the large group or small group markets after the effective date of this section that plan to cease offering coverage in one or both of those markets must comply with the following requirements.

A. Notice of the decision to cease business in that market must be provided to the bureau 3 months before the cessation unless a shorter notice period is approved by the superintendent. If existing contracts are nonrenewed, notice must be provided to the bureau and to the policyholder or contract holder 6 months before nonrenewal. [PL 2001, c. 258, Pt. B, §3 (AMD).]

B. Carriers that cease to write new small group business continue to be governed by section 2808-B with respect to small group contracts in force and their renewal or replacement contracts. [PL 2001, c. 258, Pt. E, §11 (AMD).]

C. Carriers that cease to write new business in that market are prohibited from writing new business in that market for a period of 5 years after the date of termination of the last policy unless the superintendent waives this requirement for good cause shown. [PL 2001, c. 258, Pt. B, §3 (AMD).]

[PL 2001, c. 258, Pt. B, §3 (AMD); PL 2001, c. 258, Pt. E, §11 (AMD).]

5. Association plans. The requirements of this subsection apply to group contracts that are subject to this section and that are issued to association groups pursuant to section 2805-A. Carriers shall renew coverage for association members if coverage through an association is terminated because the association ceases to exist, changes its membership eligibility criteria, fails to pay premiums, commits fraud or misrepresentation or voluntarily terminates the group policy.

A. If coverage to an employer through an association is terminated, the carrier shall renew the coverage with the employer becoming the policyholder. [PL 2005, c. 121, Pt. G, §1 (NEW).]

B. If coverage to an individual member of an association is terminated, the carrier shall renew the coverage with the individual becoming the policyholder. A carrier that has been granted an exemption pursuant to section 2736-C, subsection 9 does not lose that exemption simply by virtue of renewing coverage to individuals under this paragraph. [PL 2005, c. 121, Pt. G, §1 (NEW).]

The requirements of this subsection do not apply if the employer or individual fails to pay premiums, commits fraud or misrepresentation, voluntarily terminates membership in the association or ceases to qualify for membership for reasons other than a change in the association's membership eligibility criteria.

[PL 2005, c. 121, Pt. G, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 445, §30 (NEW). PL 1997, c. 445, §32 (AFF). PL 1999, c. 256, §L10 (AMD). RR 2001, c. 1, §34 (COR). PL 2001, c. 258, §B3 (AMD). PL 2001, c. 258, §§E10,11 (AMD). PL 2003, c. 428, §§A1,2 (AMD). PL 2005, c. 121, §G1 (AMD). PL 2007, c. 199, Pt. C, §§1, 2 (AMD). PL 2011, c. 90, Pt. F, §3 (AMD). PL 2011, c. 238, Pt. F, §1 (AMD). PL 2019, c. 5, Pt. A, §17 (AMD).

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