

PENNSYLVANIA INSURANCE DEPARTMENT ISSUES EXEMPTION FROM FILING/PRIOR APPROVAL REQUIREMENTS FOR POLICY FORMS REVISED ONLY TO COMPLY WITH PPACA IMMEDIATE MARKET REFORM REQUIREMENTS

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The Pennsylvania Insurance Department (the "Department") recently issued Notice 2010-07 (*Patient Protection and Affordable Care Act – Guidance for Compliance Filings*). Notice 2010-07 provides an exemption from the forms filing/prior approval requirements under Pennsylvania's Accident and Health Filing Reform Act for insurers that issue health insurance coverage subject to the PPACA immediate market reform requirements (i.e. health reform requirements that must be implemented for plan years beginning on or after September 23, 2010). Most group products already are exempt from the forms filing/prior approval requirements of the Filing Reform Act, so that only individual health insurance products will directly benefit from the Notice 2010-07 filing exemption.

For such individual products, the filing exemption applies to changes to existing policy forms if the following conditions are met:

- The revisions are only those necessary to make the forms compliant with the PPACA immediate market reform requirements (no other revisions of any kind may be made to the forms); and
- The insurer must certify to the Department that all policy forms issued by the insurer that are subject to the PPACA immediate market reform requirements (individual, small group and large group) have been modified to be PPACA compliant.

Upon filing the required certification with the Department, the policy forms will be presumed to comply with the PPACA immediate market reform requirements and may be used. However, the Department retains its authority to take enforcement action for policy forms that do not comply with either Pennsylvania law or the PPACA.

Notice 2010-07 provides significant relief to insurers who have been scrambling to meet the PPACA deadline while awaiting guidance from the U.S. Department of Health and Human Services for implementing the prohibitions on rescission, pre-existing condition exclusions for children, lifetime dollar limits, and cost-sharing for preventive services as well as other requirements that constitute the PPACA immediate market reforms.

Nonetheless, it is important for insurers to keep in mind what is not exempted from filing/prior approval requirements. As indicated above, policy forms that include additional coverage revisions to coincide with implementation of the PPACA immediate market reform requirements remain subject to filing/prior approval requirements. Other changes that will require filing/prior approval include: (1) premium changes to be used in conjunction with the PPACA-compliant forms for products and insurers subject to rate filing/prior approval requirements under the Filing Reform Act (i.e. individual products, HMOs and the Blues); and (2) policy form revisions to address PPACA requirements other than the immediate market reform requirements.

Notice 2010-07, including the form of "Certification" that must be used to be exempt from the form filing/prior approval requirements, can be found at <http://www.pabulletin.com/secure/data/vol140/40-27/1231.html> or on the Department website at www.insurance.pa.gov.

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