

11:21-16.6 Penalties

Failure to comply with the requirements of this subchapter shall result in the imposition of penalties pursuant to N.J.S.A. 17B:27A-43 and any and all other penalties provided by law.

Recodified from N.J.A.C. 11:21-16.5 by R.2004 d. 108, effective March 15, 2004.

See: 35 N.J.R. 4438(a), 36 N.J.R. 1605(a).

Former N.J.A.C. 11:21-16.6, Other policyholder rights unaffected, recodified to N.J.A.C. 11:21-16.7.

11:21-16.7 Other policyholder rights unaffected

Nothing in this subchapter shall be construed to contravene any rights of policyholders concerning cancellation requirements or obligations set forth in a policy or contract issued by a small employer carrier.

Recodified from N.J.A.C. 11:21-16.6 by R.2004 d. 108, effective March 15, 2004.

See: 35 N.J.R. 4438(a), 36 N.J.R. 1605(a).

Former N.J.A.C. 11:21-16.7, Revocation of a notice of intent to withdraw, recodified to N.J.A.C. 11:21-16.8.

11:21-16.8 Revocation of a notice of intent to withdraw

(a) A carrier may revoke its notice of intent to withdraw, filed with the Commissioner pursuant to N.J.A.C. 11:21-16.3, prior to the date that its withdrawal is complete, by submitting a statement to the Department at the address specified at N.J.A.C. 11:21-16.3(c) and to the Board at the address specified at N.J.A.C. 11:21-1.2 revoking its notice of intent to withdraw. The revocation shall be signed by a duly authorized officer, and shall include the following:

1. A statement agreeing to reinstate any small employer that was nonrenewed by the carrier pursuant to the provisions of N.J.S.A. 17B:27A-23e and this subchapter.

New Rule, R.1994 d.580, effective November 21, 1994.

See: 26 N.J.R. 3118(a), 26 N.J.R. 4620(a).

Amended by R.1998 d.533, effective November 16, 1998.

See: 30 N.J.R. 2978(a), 30 N.J.R. 4045(a).

In (a), changed N.J.A.C. reference in the introductory paragraph, substituted "nonrenewed" for "cancelled, or terminated" in 1, and deleted former 2 through 4.

Recodified from N.J.A.C. 11:21-16.7 by R.2004 d. 108, effective March 15, 2004.

See: 35 N.J.R. 4438(a), 36 N.J.R. 1605(a).

SUBCHAPTER 17. FAIR MARKETING STANDARDS

11:21-17.1 Plan identification and marketing materials

(a) Each small employer carrier which issues marketing and/or promotional materials in conjunction with the standard health benefits plans may attach its own name or identification to each of the plans, but shall also identify each of those standard health benefits plans by the alphabetical designation (A, B, C, D, E, HMO, HMO POS) assigned

to it in N.J.A.C. 11:21-3.1. The alphabetical designation shall be clearly identified in the designation of each of the small employer carrier's standard health benefits plans.

(b) All eligibility, coverage and exclusions described in the small employer carrier's marketing and/or promotional material shall be consistent with the Act and this chapter.

Amended by R.1997 d.62, effective February 3, 1997.

See: 28 N.J.R. 4344(a), 29 N.J.R. 428(a).

In (a), inserted "standard" preceding "health benefits plan" throughout and inserted reference to HMO POS.

Amended by R.1998 d.512, effective September 25, 1998.

See: 30 N.J.R. 2815(a), 30 N.J.R. 3840(a).

Deleted former (c).

Amended by R.2004 d.107, effective March 15, 2004.

See: 35 N.J.R. 5011(a), 36 N.J.R. 1594(a).

In (b), substituted "eligibility, coverage and exclusions described" for "terms, definitions, and text used".

11:21-17.2 Retention of marketing and promotional materials

Small employer carriers shall maintain a complete file of all marketing and promotional material specific to the health benefits plans, which it disseminates to consumers, producers, or otherwise publicly disseminates. Small employer carriers shall retain each piece of promotional and marketing materials for a period of three calendar years from the last date the material is publicly disseminated, which shall be deemed its complete file for the purposes of this subchapter. Upon written request of the Board, a small employer carrier shall, within three business days, make available for inspection its complete file of marketing and promotional material to the Board.

11:21-17.3 Certification

(a) Each small employer carrier disseminating marketing and promotional material shall certify that its marketing and promotional material conforms with the requirements of this subchapter. The certification, set forth in Part 2 of Exhibit BB of the Appendix, incorporated herein by reference, shall be signed by a duly authorized officer of the small employer carrier. Each small employer carrier shall file its initial certification with the Board no later than the first day upon which the small employer carrier disseminates promotional or marketing materials for the health benefits plans to consumers, producers or the public in general.

(b) Small employer carriers shall continue to file a certification as required in (a) above on an annual basis, on or before March 1 of each year following the filing of its initial certification.

Amended by R.1994 d.153, effective February 28, 1994.

See: 26 N.J.R. 741(a), 26 N.J.R. 1352(a).

Amended by R.1997 d.62, effective February 3, 1997.

See: 28 N.J.R. 4344(a), 29 N.J.R. 428(a).

In (a), inserted "carrier" preceding "disseminates promotional or marketing"; and in (b), inserted March 1 deadline.

Amended by R.1998 d.512, effective September 25, 1998.

See: 30 N.J.R. 2815(a), 30 N.J.R. 3840(a).

In (a), deleted “, or by February 15, 1994, whichever date is later” at the end.

11:21-17.4 (Reserved)

Amended by R.1998 d.512, effective September 25, 1998.

See: 30 N.J.R. 2815(a), 30 N.J.R. 3840(a).

Substituted references to a “Get the Facts” brochure for references to a Buyer’s Guide throughout.

Repealed by R.2004 d.107, effective March 15, 2004. See: 35 N.J.R. 5011(a), 36 N.J.R. 1594(a).

11:21-17.5 Producer contracts

(a) A small employer carrier may select those insurance producers, as defined by N.J.S.A. 17:22A-2j, with whom it chooses to contract. No small employer carrier shall terminate or refuse to renew the contract of its insurance producers because of health status-related factors of eligible employees or dependents, the average number of eligible employees or the average number of employees enrolled in small employer plans placed by the producer with the carrier, or the occupation or geographic location of the small employer groups placed by the insurance producer with the small employer carrier.

(b) No small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an insurance producer that provides for or results in any consideration provided to an insurance producer for the issuance or renewal of a small employer health benefits plan that varies on account of health status-related factors of eligible employees or dependents, the number of eligible employees or the number of employees enrolled, or the industry, occupation or geographic location of a small employer covered by a small employer health benefits plan.

Amended by R.1998 d.512, effective September 25, 1998.

See: 30 N.J.R. 2815(a), 30 N.J.R. 3840(a).

In (a), and (b), substituted “health status-related factors of eligible employees or dependents, or the” for “the health status, claims experience.”

Amended by R.2000 d.67, effective January 26, 2000 (operative April 1, 2000).

See: 32 N.J.R. 168(a), 32 N.J.R. 708(b).

In (b), inserted “the number of eligible employees or the number of enrollees,” following “or dependents.”

Amended by R.2004 d.107, effective March 15, 2004.

See: 35 N.J.R. 5011(a), 36 N.J.R. 1594(a).

In (a), rewrote the second sentence; in (b), substituted “employees enrolled” for “enrollees” following “the number of”.

SUBCHAPTER 18. PETITIONS FOR RULES

11:21-18.1 Scope

This subchapter shall apply to all petitions made by interested persons for the promulgation, amendment or

repeal of any rule by the Board, pursuant to N.J.S.A. 52:14B-4(f).

11:21-18.2 Procedure for petitioner

(a) Any person who wishes to petition the Board to promulgate, amend or repeal a rule shall submit to the Board, in writing, the following information:

1. Name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request and the petitioner’s interest in the request;
4. References to the statutory authority of the Board to take the requested action; and
5. A caption at the top of the document identifying it as a petition for rulemaking pursuant to N.J.S.A. 52:14B-4(f) and this subchapter.

(b) The petition shall be sent to the Executive Director at the address in N.J.A.C. 11:21-1.3.

(c) Within 30 days of its receipt of a petition for rulemaking, the Board shall review the same to ascertain if the submission complies with the requirements of (a) above and, in the event that the Board determines that the submission is not in substantial compliance with (a) above, the Board shall notify the petitioner of such noncompliance and of the particular deficiency or deficiencies in the submission on which the decision of the Board was based. The Board shall also advise the petitioner that any deficiencies may be corrected and the petition may be resubmitted for further consideration.

(d) Any document submitted to the Board which is not in substantial compliance with (a) above shall not be deemed to be a petition for a rule requiring further Board action pursuant to N.J.S.A. 52:14B-4(f).

Amended by R.2004 d.107, effective March 15, 2004.

See: 35 N.J.R. 5011(a), 36 N.J.R. 1594(a).

In (a), added 5; added a new (b) and recodified former (b) and (c) as (c) and (d).

11:21-18.3 Procedure of the Board

(a) Upon receipt of a petition in compliance with N.J.A.C. 11:21-18.2 the Board shall, within 15 days, file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register. The notice shall include:

1. The name of the petitioner;

2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(b) Within 60 days of receiving a petition in compliance with N.J.A.C. 11:21-18.2, the Board shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition which shall include:

1. The name of the petitioner;
2. The New Jersey Register citation for the notice of petition, if that notice appeared in a previous New Jersey Register;
3. Certification by the Board that the petition was duly considered pursuant to law;
4. The nature or substance of the Board's action upon the petition; and
5. A brief statement of reasons for the Board's action.

(c) Board's action on a petition may include:

1. Denying the petition;
2. Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law; or
3. Referring the matter for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of these further deliberations shall be mailed to petitioner and submitted to the Office of Administrative Law for publication in the New Jersey Register.

Amended by R.1998 d.512, effective September 25, 1998.
See: 30 N.J.R. 2815(a), 30 N.J.R. 3840(a).

In (a), inserted " , within 15 days," following "shall" in the introductory paragraph.

Amended by R.2004 d.107, effective March 15, 2004.
See: 35 N.J.R. 5011(a), 36 N.J.R. 1594(a).

In (b), substituted "60" for "30" in the introductory paragraph.

SUBCHAPTER 19. SEH PROGRAM PREMIUM COMPARISON SURVEY

11:21-19.1 Purpose and scope

(a) This subchapter requires the annual submission of data by small employer carriers to the Department, and establishes the format for the submission of such data, **regarding** premiums charged for the five standard health benefits plans, the HMO plan, the HMO/POS plan, and any standard rider packages established by the Board, so that

the Department may develop and publish an annual SEH Program Premium Comparison Survey, pursuant to N.J.S.A. 17B:27A-33g.

(b) This subchapter shall apply to all small employer carriers.

Amended by R.1998 d.533, effective November 16, 1998.

See: 30 N.J.R. 2978(a), 30 N.J.R. 4045(a).

In (a), inserted a reference to HMO/POS plans.

11:21-19.2 Definitions

The following words and terms, when used in this subchapter, shall have the meanings as defined at N.J.S.A. 17B:27A-17 and N.J.A.C. 11:21-1.2, unless defined below or the context clearly indicates otherwise.

"Standard health benefits plan" means a health benefits plan promulgated by the SEH Board subject to review and approval by the Commissioner.

"Standard rider" means a rider promulgated by the SEH Board to be offered with one or more of the standard health benefits plans.

11:21-19.3 SEH Program premium comparison survey

(a) Every small employer carrier shall prepare and file with the Department a premium survey reflecting premiums charged for each of the five standard small employer health benefits plans, the HMO plan, the HMO/POS plan, and for any standard rider packages, as set forth in Exhibit FF of the Appendix to this chapter, incorporated herein by reference.

(b) Every small employer carrier shall complete the survey in the format set forth in Exhibit FF in accordance with the instructions set forth therein, and shall not vary the information solicited in Exhibit FF.

(c) Completed survey forms shall be filed no later than November 1 of each year, and shall reflect the monthly premiums to be charged for each of the five standard health benefits plans, the HMO plans, the HMO/ POS plans, and any standard rider packages as of January 1 of the year immediately following.

(d) All filings shall be accompanied by the following certification signed by the person who completed the survey: "I _____ certify that the information set forth in the attached SEH Program Premium Comparison Survey is true and accurate, and hereby further certify that I am authorized to execute this certification on behalf of the carrier named in the survey."

(e) Completed survey forms and signed certification shall be filed with the Department pursuant to this subchapter at the following address:

SEH Program Premium Comparison Survey
 Public Affairs Office
 New Jersey Department of Banking and Insurance
 20 West State Street
 PO Box 325
 Trenton, New Jersey 08625-0325

Amended by R.1998 d.533, effective November 16, 1998.
 See: 30 N.J.R. 2978(a), 30 N.J.R. 4045(a).

In (a) and (c), inserted references to HMO/POS plans; in (c), deleted a former second sentence; deleted a former (d); recodified former (e) and (f) as (d) and (e); and in the new (e), updated the address.

11:21-19.4 Penalties

Failure to comply with the requirements of this subchapter may result in the imposition of penalties as authorized by N.J.S.A. 17B:27A-43.

Amended by R.2004 d.108, effective March 15, 2004.
 See: 35 N.J.R. 4438(a), 36 N.J.R. 1605(a).
 Amended the N.J.S.A. reference.

SUBCHAPTER 20. WITHDRAWALS OF STANDARD SEH PLAN OPTIONAL BENEFIT RIDERS

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17B:27A-17 et seq.

Source and Effective Date

R.1999 d.156, effective May 17, 1999.
 See: 31 N.J.R. 109(a), 31 N.J.R. 1357(a).

11:21-20.1 Purpose and scope

(a) The purpose of this subchapter is to establish standards and procedures for carriers to withdraw standard SEH plan optional benefit riders.

(b) This subchapter applies to all riders to a standard SEH plan filed with the Commissioner or the SEH Board pursuant to N.J.S.A. 17B:27A-19i(1).

11:21-20.2 Definitions

Words and terms, when used in this subchapter, shall have the meanings as defined at N.J.S.A. 17B:27A-17 or N.J.A.C. 11:21-1.2 unless defined below or the context clearly indicates otherwise.

“Optional benefit rider” means a rider to a standard SEH plan or plans filed with the Commissioner and/or the SEH Board pursuant to N.J.S.A. 17B:27A-19i(1).

“Small employer health benefits program” or “SEH” means the New Jersey Small Employer Health Benefits Program established pursuant to section 12 of P.L. 1992, c.162 (N.J.S.A. 17B:27A-28).

11:21-20.3 Withdrawal of optional benefit riders

(a) A carrier seeking to withdraw an optional benefit rider to a standard SEH plan that has been filed with the Commissioner and/or the Board pursuant to N.J.S.A. 17B:27A-19i(1) shall first obtain the Commissioner’s approval by complying with all of the requirements of this subchapter.

(b) A carrier seeking to withdraw an optional benefit rider shall prior to withdrawal of the optional benefit rider submit a written application to the Commissioner as follows:

1. The written application shall include the following:
 - i. The name of the carrier;
 - ii. The name, address, telephone number and fax number of the carrier’s representative responsible for the application to withdraw the optional benefit rider;
 - iii. The reason(s) the carrier is withdrawing the optional benefit rider;
 - iv. The number of inforce plans affected by the withdrawal;

v. A copy of the nonrenewal notice the carrier shall provide to policyholders or contractholders as described in (c) below;

vi. A copy of the nonrenewal notice the carrier shall provide to producers as described in (d) below; and

vii. A copy of the optional benefit rider the carrier is withdrawing, along with evidence of approval of the rider by the Department or acknowledgment of the rider by the SEH Board.

2. The completed application shall be sent to the following address:

New Jersey Department of Banking and Insurance
Life and Health Division
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

3. The Department shall review the completed application for compliance with the requirements of this section, and shall provide the carrier within 30 days of receipt with written notice of any deficiencies in the application or with an acknowledgment that the application is complete and in compliance with the requirements of this section.

4. The carrier shall return to the Department an amended application correcting any deficiencies within 30 days of receipt of the Department's deficiency notice.

5. The carrier shall cease issuing the optional benefit rider no later than 60 days after the date that acknowledgment of a complete application to withdraw the optional benefit rider is received.

(c) In addition to meeting all of the other requirements of this subchapter, a carrier seeking to withdraw an optional benefit rider shall provide written notice of nonrenewal of the optional benefit rider to the policyholder or contractholder as follows:

1. An initial notice of nonrenewal shall be provided at least 90 days prior to the anniversary date of the optional benefit rider, and shall include the following:

i. A statement that the carrier has elected to nonrenew the optional benefit rider pursuant to the authority of this subchapter;

ii. A statement that the optional benefit rider shall be nonrenewed on the anniversary date of the rider;

iii. A statement that the carrier shall offer the policyholder the option to purchase any other optional benefit riders that the carrier offers in the small employer market;

iv. A statement that the policyholder or contractholder may contact his or her producer, if any, for additional information regarding the optional benefit rider withdrawal;

v. The name, address and telephone number of the employee or agent of the carrier who may be contacted for assistance and information regarding the optional benefit rider withdrawal; and

vi. A statement that in choosing to nonrenew the optional benefit rider and offering all other health insurance the carrier offers in the small employer market, the carrier is acting uniformly without regard to the claims experience of the policyholder or contractholder or to any health status-related factors relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

2. In addition to the nonrenewal notice described in (c)1 above, a subsequent notice of nonrenewal shall be included with each monthly premium bill or premium notice issued prior to the date of nonrenewal. If no monthly premium statement is issued, a subsequent notice of nonrenewal shall be provided at least 30 days prior to nonrenewal. The notice shall contain at least the information set forth at (c)1ii and v above.

(d) In addition to meeting all of the other requirements of this subchapter, a carrier seeking to withdraw an optional benefit rider shall provide at least 90 days prior to the anniversary date of the optional benefit rider, a written notice of nonrenewal to the producer of record, if any, for each policy or contract, as follows:

1. The nonrenewal notice to the producer shall include the following:

i. A statement that the carrier has elected to nonrenew the optional benefit rider pursuant to the authority of this subchapter;

ii. The date the optional benefit rider shall be nonrenewed;

iii. A statement that the carrier will offer the policyholder or contractholder the option to purchase all other optional benefit riders that the carrier offers in the small employer market; and

iv. The name, address and telephone number of the employee or agent of the carrier who may be contacted for assistance and information regarding the optional benefit rider withdrawal.

SUBCHAPTER 21. SMALL EMPLOYER PURCHASING ALLIANCES

11:21-21.1 Purpose and scope

(a) This subchapter implements P.L. 2001, c.225 by establishing rules for the formation and operation of small employer purchasing alliances.

(b) This subchapter shall apply to eligible groups of small employers as defined in P.L. 1992, c.162 (N.J.S.A. 17B:27A-17).

11:21-21.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department of Banking and Insurance” means the New Jersey Department of Banking and Insurance.

“Small employer purchasing alliance,” “purchasing alliance” or “alliance” means a small employer purchasing alliance as established pursuant to N.J.S.A. 17B:27A-25.3.

11:21-21.3 Filing requirements

(a) Within 30 days of formation, a small employer purchasing alliance shall file the following with the Commissioner:

1. A certification of an officer or director of the purchasing alliance, which shall include:

- i. The name of the purchasing alliance;
- ii. The members of the purchasing alliance;
- iii. The names of the board of directors, chairman, treasurer and secretary of the purchasing alliance;
- iv. The New Jersey mailing address at which communications for the purchasing alliance are to be received;
- v. The toll free telephone number for prospective members to use to contact the purchasing alliance;
- vi. The eligibility requirements for membership in the purchasing alliance;
- vii. The fees charged to members of the purchasing alliance; and
- viii. A description of the SEH standard plans, and any optional benefit riders, for which the purchasing alliance negotiates or intends to negotiate premiums for its members;

2. A copy of the certificate of incorporation, if any, of the purchasing alliance;

3. A copy of the joint contract executed by all members of the purchasing alliance;

4. A description of the eligible small employers that constitute the purchasing alliance, including their common or similar type of trade or business; the common trade association, professional association or other associations; or common geographic area;

5. A copy of the bylaws of the purchasing alliance, which shall include:

- i. The procedures for the organization and administration of the purchasing alliance; and
 - ii. The procedures for the qualification and admission of additional members of the purchasing alliance; and
6. Information about the procedures a small employer should follow to join the purchasing alliance, including a contact person, address, telephone number, and eligibility requirements for membership.

(b) Filings shall be submitted to:

NJ Department of Banking and Insurance
Att: SEH Rate Filings
20 West State Street
PO Box 325
Trenton, NJ 08625-0325

(c) A current listing of the membership of the purchasing alliance as required by (a)ii above shall be filed with the Commissioner quarterly. Any other change in the information specified in (a) above shall be filed with the Commissioner within 30 days of the change.

11:21-21.4 Eligibility requirements

(a) No purchasing alliance shall use as a basis for exclusion from membership in the alliance any of the following characteristics of any small employer group as a whole, or any person eligible for coverage in that group:

1. Health status;
2. Medical condition, including both physical and mental illness;
3. Claims experience;
4. Receipt of health care;
5. Medical history;
6. Genetic information;
7. Evidence of insurability, including conditions arising out of acts of domestic violence;
8. Partial or total disability;
9. Group size;
10. Age;
11. Gender; or
12. Any other health status-related factor.

(b) A purchasing alliance shall not inquire as to the insured or uninsured health care claims experience or cost of any employer or employee.