

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

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GARY L. SMITH  
Director

**Bulletin No. 05-2**

**Date:** August 22, 2005

**To:** Small Employer Health Insurance Carriers

**From:** Gary L. Smith, Director

**Subject:** Final HIPAA Portability Rules: Required Notice of Preexisting Conditions as Part of Written Application for Enrollment and Written Warning of Penalties Imposed on Late Enrollees

The purpose of this Bulletin is to notify carriers offering small employer health insurance coverage to Idaho residents that final HIPAA portability rules went into effect July 1, 2005, and will apply to plan renewals on or after that date. These rules require that notices regarding preexisting conditions and special enrollment rights be provided to employees and their dependents when offering enrollment in the employer's group health insurance. Carriers should review the final rules as well as all federal and state requirements regarding preexisting conditions and special enrollment to make certain they are in compliance with federal and state laws. Carriers are also reminded that waiver of coverage forms must be completed for employees that decline coverage. These forms must include the reason coverage was declined, a written warning of any penalties imposed on late enrollees, and a statement informing the employee of special enrollment rights.

The following information will be included as a required supplemental page to the Idaho Small Employer Universal Application. In addition to this information, small employer carriers must also include contact information to assist employees in understanding their rights, including the name, title, telephone number and any other contact information for the appropriate plan representative.

*Supplemental information to be included with the Universal Application:*

**Important Information for Applicant and Eligible  
Dependents regarding the Preexisting Condition Exclusion  
and  
Initial Notice About Special Enrollment Rights**

## **I. Preexisting Condition Exclusion Rules**

This plan imposes a “**preexisting condition exclusion.**” This means that if you have a medical condition before coming to our plan, you may have to wait a certain period of time before the plan will provide coverage for that condition. This exclusion applies only to conditions for which medical advice, diagnosis, care, or treatment was recommended or received within a six-month period. Generally, this six-month period ends the day before your coverage becomes effective. However, if you were in a waiting period for coverage, the six-month period ends on the day before the waiting period begins. The preexisting condition exclusion does not apply to pregnancy nor to a child who is enrolled in the plan within 60 days after birth, adoption, or placement for adoption.

This exclusion may last up to 12 months from your first day of coverage, or, if you were in a waiting period, from the first day of your waiting period. However, the length of this exclusion period is reduced by the number of days of your prior “**creditable coverage.**” Most prior health coverage is creditable coverage and can be used to reduce the length of the preexisting condition exclusion if you have not experienced a break in coverage of 63 days or more. To reduce the 12-month exclusion period by your creditable coverage, you should give us a copy of any certificates of creditable coverage you have. If you do not have a certificate, but you do have prior health coverage, we will help you obtain one from your prior plan or issuer. There are also other ways that you can show you have creditable coverage. Please contact us if you need help demonstrating creditable coverage.

Please contact us with any questions about the preexisting condition exclusion and creditable coverage.

## **II. Notice of Special Enrollment**

If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance or group health coverage, you may be able to enroll yourself and your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing towards your or your dependents’ other coverage). However, you must request enrollment within 30 days after you or your dependents’ other coverage ends (or after the employer stops contributing toward the other coverage).

In addition, if you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents. However, you must request enrollment within 60 days after the marriage, birth, adoption, or placement for adoption.

To request special enrollment or obtain more information, please contact us.

*[INSERT CONTACT INFORMATION FOR PLAN REPRESENTATIVE]*

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