

State of Idaho
DEPARTMENT OF INSURANCE

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BULLETIN NO. 09- 09

DATE: September 16, 2009

TO: Insurance Carriers and Producers Selling Group and Individual Health Insurance Plans in Idaho

FROM: William W. Deal, Director

SUBJECT: Definition of Prior Creditable Coverage;
Preexisting Condition Limitation - Pregnancy

Following a review of Idaho's 2009 "Alternative Mechanism" filing by the Centers for Medicare and Medicaid Services (CMS), CMS recommended that the Department provide the following clarifications by bulletin with respect to HIPAA eligible individuals.

Idaho Code Sections 41-2221(2)(d), 41-4703(23) and 41-5203(21) broadly define the terms "qualifying previous coverage" and "qualifying existing coverage" to include publicly sponsored programs and any group or individual health insurance policy or health benefit arrangement whether or not subject to the state insurance laws. The Department interprets and applies these sections to include all types of coverage that fall within the federal definition of prior "creditable coverage" set forth at Title 45 of the Code of Federal Regulations (45 C.F.R. Section 146.113). Therefore, if coverage is within the definition of "creditable coverage" for federal purposes, it is also considered "qualifying coverage" under Idaho law.

Under the federal regulation the term "creditable coverage" means, with respect to an individual, health benefits or coverage provided under any of the following:

1. Group health benefit plan;
2. Health insurance coverage without regard to whether the coverage is offered in the group market, the individual market or otherwise;
3. Part A or Part B of Title XVIII of the Social Security Act (Medicare);
4. Title XIX of the Social Security Act (Medicaid);
5. Chapter 55 of Title 10, United States Code (medical and dental care for members and certain former members of the uniformed services and their dependents). For purposes of 55 Title 10, United States Code, "uniformed services" means the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration and the Public Health Service;
6. A medical care program of the Indian Health Services or of a tribal organization;

7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code (Federal Employees Health Benefits Program (FEHBP));
9. A public health plan, which for purposes of this act, means a plan established or maintained by a state, a foreign country, the U.S. government, or other political subdivision of a state, the U.S. government or foreign country that provides health insurance coverage to individuals enrolled in the plan; or
10. A health benefit plan under section 5 (e) of the Peace Corps Act (22 U.S.C. 2504 (e)).

A State Children's Health Insurance Program (CHIP), under Title XXI of the Social Security Act, is creditable coverage, whether it is a stand-alone separate program, a CHIP Medicaid expansion program, or a combination program, and whether it is provided through a group health plan, health insurance, or any other mechanism.

CMS Insurance Standards Bulletin, Transmittal No. 05-01, clarified that:

Any public health plan, including a plan established or maintained by the U. S. government, or a foreign country, is creditable coverage for purposes of identifying eligible individuals under Part B of Title XXVII of the Public Health Service Act (PHS Act).

Public health plan coverage is creditable coverage, regardless of whether it meets the definition of health insurance coverage.

Additionally, all persons offering health coverage in Idaho are reminded that coverage exclusions for preexisting conditions, including pregnancy, may not be applied to HIPAA eligible individuals. Idaho Code Section 41-5208 prohibits the application of any preexisting condition limitation or exclusion to a person who is federally eligible under HIPAA. Therefore, it is illegal in Idaho to refuse to cover pregnancy on the grounds it is a preexisting condition if the person is a federally eligible individual under HIPAA.

Any questions regarding this bulletin may be directed to Joan Krosch, Health Policy Specialist, (208) 334-4300, or by email to: joan.krosch@doi.idaho.gov