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## **BULLETIN 13-21**

Date: July 3, 2013

To: Insurers, Nonprofit Health Service Plans and Health Maintenance Organizations Participating in the Individual Health Benefit Plan Market or the Small Employer Health Benefit Plan Market in Maryland

Re: Renewal of Grandfathered Health Benefit Plans and Non-Grandfathered Health Benefit Plans after December 31, 2013

The purpose of this Bulletin is to provide guidance to carriers regarding renewal of grandfathered and non-grandfathered health benefit plans after December 31, 2013.

Effective January 1, 2014, Maryland law requires insurers, nonprofit health service plans and health maintenance organizations (“carriers”) that offer health benefit plans to small employers in the State also to offer qualified health plans in the Small Business Health Options Program (SHOP) Exchange.<sup>1</sup> Similarly, carriers that offer health benefit plans in the individual market in the State, must offer qualified health benefit plans in the Individual Exchange.<sup>2</sup> A carrier may apply for an exemption from this requirement if the carrier’s premium volume is below certain thresholds set forth in the law. House Bill 228, Chapter 159, Acts of 2013 also provides an exemption from participation in the Individual Exchange for those carriers that limit their individual health benefit plan offerings in Maryland to student health benefit plans.<sup>3</sup>

The process for applying for an exemption is described in Bulletin 13-06 Amended, dated January 29, 2013, and is available on the Maryland Insurance Administration’s website at: <http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin13-06-amended.pdf>. *Please note that participation in an Exchange by a carrier that is part of an insurance holding company system does not satisfy the requirement of participation in an Exchange by a different carrier that is part of the same insurance holding company system.*

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<sup>1</sup> § 15-1204.1, Insurance Article Annotated Code of Maryland.

<sup>2</sup> § 15-1303, Insurance Article, Annotated Code of Maryland.

<sup>3</sup> See amended § 15-1303, Insurance Article in House Bill 228/Senate Bill 274 (2013).

The Affordable Care Act requires the guaranteed availability of all non-grandfathered health benefit plans as of January 1, 2014.<sup>4</sup> If a carrier will no longer be issuing new health benefit plans in a particular market, such as the individual health benefit plan market, the carrier would not be able to satisfy the guaranteed availability requirement for non-grandfathered health benefit plans.

Therefore, a carrier will be required to non-renew non-grandfathered health benefit plans for renewal dates on and after January 1, 2014, if the carrier:

1. Has non-grandfathered health benefit plans in force in the individual or small group market;
2. Is not participating in the Individual Exchange or SHOP Exchange in Maryland (for the respective market or markets in which the carrier has the non-grandfathered plans described in item 1); and
3. Has not received an exemption from participation in the respective Exchange.

The carrier non-renewing the non-grandfathered health benefit plans described above is subject to the Health Insurance Portability and Accountability Act (HIPAA) notice requirements, which are found in §§ 15-1212 and 15-1309, Insurance Article, Annotated Code of Maryland.

Since the guaranteed availability requirements of the Affordable Care Act do not apply to grandfathered health benefit plans, carriers may continue to renew grandfathered health benefit plans after December 31, 2013, even if the carrier does not participate in the respective Exchange in Maryland.

Questions about this Bulletin may be directed to the Life/Health Section of the Maryland Insurance Administration at 410-468-2170.

*Signature on original*

Brenda A. Wilson  
Associate Commissioner  
Life and Health

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<sup>4</sup> See Section 2702, Affordable Care Act.