



COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky

**ADVISORY OPINION
2011-01**

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL HEALTH INSURERS AUTHORIZED TO TRANSACT
INDIVIDUAL HEALTH INSURANCE BUSINESS IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

DATE: MARCH 7, 2011

RE: CHILD-ONLY POLICIES
SPECIAL ENROLLMENT OPPORTUNITIES

It has come to the Department’s attention that insurers may be experiencing confusion over the requirements set forth in an Order dated November 18, 2010 regarding “Guaranteed Issuance of Individual Health Insurance Coverage for Children under the Age of 19 and Prohibition against Imposing Pre-existing Conditions” (“Order”). The Order reserved the right for the Commissioner of Insurance to clarify any question or issues that arise by Advisory Opinion. The purpose of this Advisory Opinion is to clarify the Department’s position on the provision of special enrollment periods for child-only policies upon the occurrence of certain qualifying events.

The Order states:

5. Insurers shall not offer child-only policies outside the open enrollment periods established by this Order except Insurers shall permit a child under the age of 19 to apply and enroll for coverage during a special enrollment period under the terms of the health benefit plan if the child has experienced a qualifying event as set forth under KRS 304.17A-220(10)(a). A health benefit plan issued during a special enrollment period after a qualifying event to a child under the age of 19 shall be issued on a guaranteed basis and shall not impose any pre-existing condition provision.

The Department's intention in this section was to allow individuals to apply for coverage outside the open enrollment period who are newly eligible to obtain a child-only policy due certain qualifying events. Those events include loss of coverage, expiration of COBRA or continuation, and acquisition of a dependent as referenced in 304.17A-220(10). The reference to the statute was meant to illustrate the types of events that should be recognized. The reference to 304.17A-220(10)(a) was a typographical error and should have been 304.17A-220(10).

As 304.17A-220(10) is applicable to group policies, the exact scenarios set forth in the statute may not be applicable to the individual market. Therefore, the carrier was meant to incorporate the events and the time frames set forth in statute and apply them in comparable scenarios in the individual market. For example, if a dependent child under the age of 19 experiences a loss of coverage during the year as reflected in 304.17A-220(10)(a) (such as losing group coverage through a parent's plan or other health insurance), an insurer must recognize a special enrollment period lasting as least thirty (30) days from the date of the event (loss of coverage). Also, if an individual acquires a child under the age of 19 outside of the open enrollment period due to an event referenced in 304.17A-220(10)(c), (such as birth or adoption), that child is eligible for an open enrollment period lasting at least thirty days (30) from the date of acquisition (birth, adoption, etc). These events still constitute a qualifying event even if the parent is not currently covered under a child-only policy.

Nothing in this order shall prohibit an insurer from setting a premium rate for individuals based upon medical underwriting so long as such rate is in compliance with the applicable product's rate filing on record with the Department of Insurance. Pursuant to the Order, individuals under the age of 19 applying for child-only coverage during a special enrollment period shall not be eligible for coverage if the individual has other coverage, or other coverage is available to them, on the effective date of the child only coverage being applied for. Other coverage shall not include coverage through Kentucky Access or the Federal Pre-Existing Condition Insurance Plan.

Any questions should be directed to Sharron Burton, General Counsel, Office of Legal Services, at 502-564-6032 or sharron.burton@ky.gov.

/s/ Sharon P. Clark.
Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 7th day of March, 2011