

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

## **Kentucky Department of Insurance**

### **Advisory Opinion 98-01**

#### **In re: The issuance and renewal of health benefit plans under 98 RS HB 315/EN**

RELEVANT FACTS AND STATUTES: The Department has received numerous inquiries regarding the time frame for transitioning to the new rating and benefit requirements.

Due to the emergency clause in Section 65, HB 315 became effective upon its signing by the Governor on April 10, 1998. As a condition of doing business, HB315 requires all carriers to offer and issue the standard health benefit plan after June 30, 1998 (Section 7(4)). Further, the legislation requires that premium rates for a health benefit plan issued or renewed on or after April 10, 1998, to an individual, small group, or association, comply with the new rating requirements of HB 315 (Section 10). There were no transitional provisions in HB 315 regarding the implementation of the new rating provisions.

**DEPARTMENT'S POSITION:** It is the Department's position that since HB 315 requires policies issued or renewed on or after April 10, 1998 be rated in accordance with HB 315, carriers must immediately forward their new rate filings for review by the Department. Since HB 315 requires the standard health benefit plan be offered to individuals, small groups and associations after June 30, 1998, carriers must have the standard health benefit plan filed and approved by the Department on or before June 30, 1998. Any carrier issuing or renewing a health benefit plan using rates other than those approved in accordance with HB 315 violates the provisions of HB 315 (Section 10).

In recognition of the fact that time for transitioning to the new rating methodology was not provided for under HB 315, the Department does not interpret such noncompliance to be intentional and will not impose penalties for policies issued and renewed prior to July 1, 1998, under a rate other than one approved under HB 315. On or after July 1, 1998, the Department may interpret any noncompliance to be intentional and may impose penalties for violation of Section 10 of HB 315. Further, if a carrier has not filed standard health benefit plan forms and accompanying rates for approval by the Department by June 30, 1998, the Department may interpret such action as intentional noncompliance and may impose monetary penalties on and after July 1, 1998, for violation of Section 7(4) of HB 315.

Questions regarding this Advisory Opinion may be directed to Ms. Betsy Foster, Director Life and Health Division, (502) 564-3630.

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George Nichols III

Commissioner

Date: 6/12/98

