



ADMINISTRATIVE RULES OF MONTANA



6.6.5086 TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER

- (1) No small employer carrier may transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless:
 - (a) The transfer has been approved by the commissioner of the state of domicile of the assuming carrier;
 - (b) The transfer has been approved by the commissioner of the state of domicile of the ceding carrier;
 - (c) The transfer has been approved by the commissioner of this state; and
 - (d) The transfer otherwise meets the requirements of this rule.
- (2) Any carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more small employer health benefit plans from another carrier shall file a request for approval of the transfer with the commissioner at least 60 days prior to the date of the proposed assumption. The commissioner may approve the transfer if the commissioner finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the act and these rules. The commissioner shall not approve the transfer until at least 30 days after the date of the filing, unless the commissioner finds that the ceding carrier is in hazardous financial condition, in which case the commissioner may approve the transfer as soon as the commissioner deems reasonable after the filing.
- (3) The filing required under (2) must:
 - (a) Describe the class of business (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded;
 - (b) State whether the assuming carrier will maintain the assumed health benefit plans as a separate class of business pursuant to (8) or will incorporate them into an existing class of business pursuant to (9) . If the assumed health benefit plans will be incorporated into an existing class of business, the filing must describe the class of business of the assuming carrier into which the health benefit plans will be incorporated;
 - (c) State whether the health benefit plans being assumed are currently available for purchase by small employers;
 - (d) Describe the potential effect, if any, of the assumption on the benefits provided by the health benefit plans to be assumed;

- (e) Describe the potential effect, if any, of the assumption on the premiums for the health benefit plans to be assumed; and
 - (f) Describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed.
- (4) A small employer carrier required to file a request under (2) shall include an informational filing, or other such filing as may be required, with the commissioner of each state in which there are small employer health benefit plans that would be included in the transfer. The informational filing to each state may be made concurrently with the filing made under (2) and include at least the information specified in (3) for the small employer health benefit plans in that state.
- (5) No small employer carrier may transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless it complies with the following provisions:
 - (a) The carrier shall provide notice to the commissioner at least 60 days prior to the date of the proposed assumption. The notice must contain the information specified in (3) for the health benefit plans covering small employers in this state.
 - (b) If the assumption of a class of business would result in the assuming small employer carrier being out of compliance with the limitations related to premium rates contained in 33-22-1809 , MCA, the assuming carrier shall apply to the commissioner pursuant to 33-22-1809 (3) , MCA, for a suspension of the application of 33-22-1809 (1) , MCA.
 - (c) No assuming carrier seeking suspension of the application of 33-22-1809 (1) , MCA, may complete the assumption of health benefit plans covering small employers in this state unless the commissioner grants the suspension requested pursuant to (5) (b) .
 - (d) Unless a different period is approved by the commissioner, a suspension of the application of 33-22-1809 (1) , MCA, must, with respect to an assumed class of business, be for no more than 15 months and, with respect to each individual small employer, must last only until the anniversary date of such employer's coverage, provided that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the anniversary date occurs within 3 months of the date of assumption of the class of business.
- (6) Except as provided in (2) , no small employer carrier may cede or assume the entire insurance obligation and/or risk for a small employer health benefit plan unless the transfer includes the ceding to the assuming carrier of the entire class of business which includes such health benefit plan.
- (7) A small employer carrier may cede less than an entire class of business to an assuming carrier if:
 - (a) One or more small employers in the class has exercised their right under contract or state law to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transfer must include each health benefit plan in the class of business except those health benefit plans for which a small employer has rejected the proposed cession; or
 - (b) After a written request from the transferring carrier, the commissioner determines that the transfer of less than the entire class of business is in the best interests of the small employers insured in that class of business.

- (8) Except as provided in (9) , a small employer carrier that assumes one or more health benefit plans from another carrier shall maintain such health benefit plans as a separate class of business.
- (9) Subject to the prior approval of the commissioner, a small employer carrier that assumes one or more health benefit plans from another carrier may exceed the limitation contained in 33-22-1808 (2) , MCA, due solely to such assumption for a period of no more than 15 months after the date of the assumption, provided that the carrier complies with the following provisions:
 - (a) Upon assumption of the health benefit plans, such health benefit plans must be maintained as separate classes of business. During the 15-month period following the assumption, each of the assumed small employer health benefit plans must be transferred by the assuming small employer carrier into a single class of business operated by the assuming small employer carrier. The assuming small employer carrier shall select the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans;
 - (b) The transfers authorized in (9) (a) must occur, with respect to each small employer on the anniversary date of the small employer's coverage, provided that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to 12 months if the anniversary date occurs within 3 months of the date of the assumption of the class of business;
 - (c) A small employer carrier making a transfer pursuant to (9) (a) may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred;
 - (d) The premium rate for an assumed small employer health benefit plan must not be modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to (9) (a) . Upon transfer, the assuming small employer carrier shall calculate a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan must be no higher than the risk load applicable to such health benefit plan prior to the assumption.
- (10) During the 15-month period provided in (9) (a) , the transfer of small employer health benefit plans from the assumed class of business in accordance herewith may not be treated as a violation of 33-22-1809 (2) , MCA.
- (11) Assuming carriers may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan, or with respect to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan, that are more stringent than the requirements applicable to such health benefit plan prior to the assumption.
- (12) The commissioner may approve a longer period of transition upon application by a small employer carrier. The application must be made within 60 days after the date of assumption of the class of business and must clearly state the justification for a longer transition period.
- (13) Nothing in this rule is intended to:

- (a) Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Title 33, chapter 2, part 12, MCA, of the ceding or assuming carrier related to the transaction;
- (b) Authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or
- (c) Reduce or diminish the protections related to an assumption reinsurance transaction provided in Title 33, chapter 2, part 12, MCA, or otherwise provided by law.

Authorizing statute(s): Sec. 33-1-313 and 33-22-1822 MCA

Implementing statute(s): Sec. 33-22-1802, 33-22-1808, 33-22-1809, and 33-22-1812 MCA

History: NEW, 1994 MAR p. 1528, Eff. 6/10/94.