6.6.5058 REQUIREMENT TO INSURE ENTIRE GROUPS

(1) A carrier providing health insurance coverage to a small employer shall offer coverage to all eligible employees and their dependents and shall issue coverage to all eligible employees and their dependents who make timely application and who do not waive coverage under (6) . Except as provided in (2) , such small employer carriers shall provide the same health benefit plan to each such eligible employee and dependent.

(2) Small employer carriers may offer the employees of a small employer the option of choosing among any health plans which have been chosen by the employer. The choice among benefit plans may not be limited, restricted, or conditioned based upon the risk characteristics of the employees or their dependents or upon any factors set forth in 33-22-526 , MCA.

(3) A small employer has the sole discretion, within the parameters of 33-22-1803 (13) , MCA and ARM 6.6.5001(8) , to define the hourly workweek eligibility criteria as a normal workweek between 20 and 40 hours, provided the criteria is applied uniformly among all employees. If the employer has chosen to define the hourly eligibility as other than 30 hours a week, the employer must sign a contract endorsement stating the following:

(a) the specific hourly employee eligibility requirement with a normal workweek between 20 and 40 hours;

(b) that all employees have been, and new employees will be, informed of the eligibility requirement;

(c) that the hourly eligibility requirement was not established for the purposes of excluding an employee or dependent of an employee because of the individual's health status, claims experience, risk characteristics, or any factor set forth in 33-22-526 , MCA; and

(d) that the eligibility requirement applies uniformly among all employees.

(4) Part-time and temporary employees may be offered coverage in a small employer group health plan at the discretion of the employer, provided all part-time and temporary employees are treated uniformly and eligibility for coverage is not related to risk characteristics or factors listed in 33-22-526 , MCA. Such employees are not to be counted for purposes of determining the number of "eligible employees" pursuant to 33-22-1803 (24) , MCA.

(5) Small employer carriers shall require each small employer that applies for coverage, as part of the application process, to provide a complete list of eligible employees and eligible dependents. The list must include a statement showing how much the employer is contributing to each employee's premiums.

(6) Small employer carriers shall secure waivers with respect to each eligible employee and each eligible dependent who declines an offer of coverage under a health benefit plan provided to a small employer. Such waivers must be signed by the eligible employees on behalf of such employee or the dependent of such employee and must certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form may request but must not require that the reason for declining coverage be stated on the form, and must include a written warning of the penalties imposed on late enrollees. Waivers must be maintained by the small employer carrier for a period of 6 years.

(7) Small employer carriers may not issue coverage to any small employer if the carrier is unable to obtain the list required under (5) , and the waivers required under (6) .

(8) Small employer carriers may not offer coverage to any small employer if the carrier, or a producer for such carrier, has reason to believe that the small employer or producer has induced or pressured an eligible employee, or dependent of an eligible employee, to decline coverage due to the individual's health status, claims experience or risk characteristics. Small employer carriers may not offer coverage to any small employer if the carrier, or a producer for such carrier, has reason to believe that the small employer has chosen to define an eligible employee in such a way as to specifically exclude from coverage an employee or dependent of anemployee because of the individual's health status, claims experience or risk characteristics.

(9) Prior to submitting an application for coverage with the carrier on behalf of a small employer, each involved producer shall notify his or her small employer carrier of any circumstances that would indicate that the small employer has induced or pressured an eligible employee or eligible dependent, to decline coverage due to the individual's health status, claims experience or risk characteristics. Prior to submitting an application for coverage with the carrier on behalf of a small employer, each involved producer shall notify his or her small employer carrier of any circumstances that would indicate that the small employer has defined an eligible employee in such a way as to specifically exclude from coverage an employee or a dependent of an employee because of the individual's health status, claims experience or risk characteristic.

Authorizing statute(s): Sec. 33-1-313, 33-22-143, and 33-22-1822, MCA

Implementing statute(s): Sec. 33-22-526, 33-22-1802, 33-22-1803, 33-22-1811, and 33-22-1812, MCA

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