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Directive 12-EX-1

TO: All Health Insurers Writing or Renewing Comprehensive Major Medical Group Health Insurance

FROM: RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: JANUARY 12, 2012

RE: Definition of Small and Large Employer For the Purposes of Applying Section 2718 of the Public Health Services Act

[Note: this Directive replaces Directive 11-EX-8, which was executed by the Commissioner on December 30, 2011. To avoid confusion Directive 11-EX-8, which is substantively identical to the instant Directive, was not published].

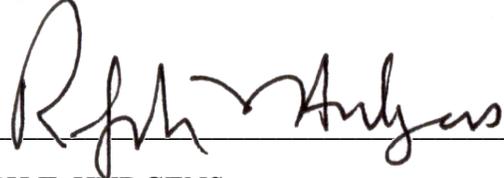
It has come to my attention that there is some confusion among Insurers regarding what the definition of small and large group is for the purposes applying Section 2718 of the Public Health Services Act (“PHSA”). It appears that the confusion, at least in part, is a result the Department of Health and Human Services (“HHS”) guidance, issued on May 13, 2011, in which HHS announced the following presumption:

If a State uses 50 employees in its definition of small employer for other purposes, absent indication to the contrary, this will be deemed to be an election to use 50 as the upper limit for the purposes of [Section 2718 of the PHSA]. (emphasis added)

Insurance Standards Bulletins Series of May 13, 2011 (CCIIO 2011 – 002). Recently, HHS clarified its position on this matter to the NAIC. Specifically, HHS determined that States that define small employer as an employer with no more than 50 employees, like Georgia, can continue to enforce the State’s definition of small employer even though that definition is not consistent with the federal definition of small employer. This Directive is intended to clarify that Georgia law does not apply to PHSA § 2718, and consequently the federal definitions of small employer (*i.e.*, 1-100 employees) and large employer (*i.e.*, 101 or more employees) are applicable to PHSA § 2718 and the implementing regulations. The federal definition is applicable starting with calendar year 2011, and shall be used for all federal reporting purposes related to PHSA § 2718 and

for purposes of reporting on the Supplemental Health Blank prescribed by the NAIC. For the purposes of Georgia law, however, the Georgia definitions of small and large employer remain in effect. Govern yourselves accordingly.

If you have any questions please feel free to contact the Life and Health Section of the Regulatory Services Division of the Georgia Insurance Department at 404-656-2090.

A handwritten signature in black ink, appearing to read "Ralph T. Hudgens", is written over a horizontal line.

RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA