DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

Date: November 21, 2013

From: Gary Cohen, Director, Center for Consumer Information and Insurance Oversight

Title: Insurance Standards Bulletin Series -- INFORMATION

Subject: Standard Notices for Transition to ACA Compliant Policies

On November 14, 2013, CMS issued a letter to State Insurance Commissioners outlining a transitional policy for non-grandfathered coverage in the small group and individual health insurance markets. If permitted by applicable State authorities, health insurance issuers may choose to continue coverage that would otherwise be terminated or cancelled, and affected individuals and small businesses may choose to re-enroll in such coverage. Under this transitional policy, non-grandfathered health insurance coverage in the individual or small group market that is renewed for a policy year starting between January 1, 2014, and October 1, 2014, will not be considered to be out of compliance with certain market reforms if certain specific conditions are met.

One of the conditions for the transitional policy is that the health insurance issuer must send a notice to all individuals and small businesses that received a cancellation or termination notice with respect to the coverage, or send a notice to all individuals and small businesses that would otherwise receive a cancellation or termination notice with respect to the coverage, that informs them of (1) any changes in the options that are available to them; (2) which of the specified market reforms would not be reflected in any coverage that continues; (3) their potential right to enroll in a qualified health plan offered through a Health Insurance Marketplace and possibly qualify for financial assistance; (4) how to access such coverage through a Marketplace; and (5) their right to enroll in health insurance coverage outside of a Marketplace that complies with the specified market reforms.

Included with this guidance are standard notices that are required to be used in order to satisfy the requirement outlined above. Attachment 1 is the notice that must be sent to policyholders that have already been sent a cancellation notice for the existing coverage. Attachment 2 is the notice that must be sent to policyholders that have not previously been sent a cancellation notice for the existing coverage. The appropriate notice must be delivered to the policyholder separately from any other plan materials or correspondence.

Also included as Attachment 3 is standard language that satisfies the requirement when health insurance issuers proceed with the cancellation of the coverage in either the small group or individual health insurance markets. The use of this language will be considered to satisfy the requirement to notify policyholders of the discontinuation of their policies if it is prominently displayed in all cancellation notices sent between the issuance of this guidance and December 31, 2014. CMS will be working closely with states as the primary enforcers of these notice requirements.

Where to get more information:

If you have any questions regarding this guidance, please e-mail CCIIO at marketreform@cms.hhs.gov.

Attachment 1

This notice must be used when a prior cancellation notice was sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We previously notified you that your current policy is being cancelled because it doesn't meet the minimum standards required by the health care law. We are now writing to inform you that, under federal guidance announced in November 2013, you may keep this coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.][1]

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

If you have questions, please contact us.

[1] The bracket language does not apply to the U.S. territories that do not have a Marketplace.

Attachment 2

This notice must be used when a prior cancellation notice has not been sent and the issuer is providing an option to the policyholder to continue the existing coverage:

Dear Policyholder,

We are writing to inform you that, under federal guidance announced in November 2013, you may keep your existing coverage for the upcoming plan year beginning in 2014.

How Do I Keep My Current Plan?

To keep your current plan, please contact us.

As you think about your options, there are some things to keep in mind. If you choose to renew your current policy, it will NOT provide all of the rights and protections of the health care law. These include one or more of the following new protections of the Public Health Service Act (PHS Act) that were added by the health care law and that take effect for coverage beginning in 2014. As a result, your coverage:

- May not meet standards for fair health insurance premiums, so it can charge more based on factors such as gender or a pre-existing condition, and it doesn't have to comply with rules limiting the ability to charge older people more than younger people (section 2701).
- May not meet standards for guaranteed availability, so it can exclude customers based on factors such as a pre-existing condition (section 2702).
- May not meet standards for guaranteed renewability (section 2703).
- May not meet standards related to pre-existing conditions for adults, so it can exclude coverage for treatment of an adult's pre-existing condition (section 2704).
- May not meet standards related to discrimination based on health status (section 2705).
- May not meet standards for non-discrimination in providers (section 2706).
- May not cover essential health benefits or limit annual out-of-pocket spending, so it might not cover benefits such as prescription drugs and might have unlimited cost-sharing (section 2707).
- May not meet standards for participation in clinical trials, so you might not have coverage for services related to a clinical trial for a serious or life-threatening disease (section 2709).

How Do I Choose A Different Plan?

You have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase coverage through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage through the Marketplace.][2]

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the Marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

If you have questions, please contact us.

[2] The bracket language does not apply to the U.S. territories that do not have a Marketplace.

Attachment 3

The following language may be used to satisfy the requirement to notify policyholders (and participants and beneficiaries covered under such coverage) of the discontinuation of their policies. This language should be prominently displayed and placed before language, if any, about auto-enrolling an individual in a specific product:

How Do I Choose A Different Plan?

Even though this plan will no longer be offered, you have new options and rights for getting quality, affordable health insurance. [You may shop in the Health Insurance Marketplace, where all plans meet certain standards to guarantee health care security and no one who is qualified to purchase through the Marketplace can be turned away or charged more because of a pre-existing condition. The Marketplace allows you to choose a private plan that fits your budget and health care needs. You may also qualify for tax credits or other financial assistance to help you afford health insurance coverage.][3]

[You can also get new health insurance outside the Marketplace.] Most new plans guarantee certain protections, such as your ability to buy a plan even if you or your employees have a pre-existing condition. [However, financial assistance is not available outside the marketplace.]

You should review your options as soon as possible, since you have to buy your coverage within a limited time period to preserve your consumer protections. You have 60 days from the time your current plan ends to select a new plan that meets your needs.

How Can I Learn More?

To learn more about the Health Insurance Marketplace and protections under the health care law, visit HealthCare.gov or call 1-800-318-2596.

[3] The bracket language does not apply to the U.S. territories that do not have a Marketplace.