ALABAMA DEPARTMENT OF INSURANCE
INSURANCE REGULATION
ADMINISTRATIVE CODE

CHAPTER 482-1-116
ALABAMA SMALL EMPLOYER ALLOCATION PROGRAM

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482-1-116-.01 Authority And Short Title. This regulation is adopted pursuant to Sections 27-2-17 and 27-52-20, et seq., Code of Ala. 1975. This Regulation shall be known and may be cited as the Alabama Small Employer Allocation Program Regulation.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: New Rule: September 3, 199; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.02 Purpose. The purpose and intent of this Regulation is to enhance the availability of health insurance coverage to small employers regardless of their health status or claims experience, to prevent abusive rating practices, to prevent segmentation of the health insurance market based upon health risk, to spread health insurance risk more broadly, to

require disclosure of rating practices to purchasers, to establish rules regarding renewability of coverage, to limit the use of preexisting condition exclusions, and to improve the overall fairness and efficiency of the small group health insurance market.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: New Rule: September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.03 Applicability And Scope.

(a) This Regulation shall apply to any health benefit plan that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(1) Any portion of the premium or benefits is paid by or on behalf of the small employer.

(2) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium.

(3) The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of Section 162, Section 125 or Section 106 of the United States Internal Revenue Code.

(4) The health benefit plan is marketed to individual employees through an employer.

(b)(1) Except as provided in Subdivision (2), for the purposes of this Regulation, carriers that are affiliated companies or that are eligible to file a consolidated tax return shall be treated as one carrier and any restrictions or limitations imposed by this Regulation shall apply as if all health benefit plans delivered or issued for delivery to small employers in this state by such affiliated carriers were issued by one carrier.

(2) An affiliated carrier that is a health maintenance organization having a certificate of authority under

Section 27-21A-1, et seq., Code of Ala. 1975, may be considered to be a separate carrier for the purposes of this Regulation.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.04 Definitions. The following definitions shall apply for purposes of this Regulation:

(1) Actuarial certification. A written statement signed by a member of the American Academy of Actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of Section 5 of this Regulation, based upon the person's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.

(2) "Adjusted community rate" or "Adjusted community rating." A method used to develop a carrier's premium which spreads financial risk across the carrier's entire small group population in accordance with the requirements in Section 5 of this Regulation.

(3) "Affiliate" or "affiliated." Any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(4) "Carrier" or "small employer carrier." All entities licensed, or required to be licensed, by the Department of Insurance that offer health plans covering eligible employees of one or more small employers pursuant to this Regulation. For the purposes of this Regulation, carrier includes an insurance company licensed pursuant to Section 27-3-1, et seq.; a health care service plan licensed pursuant to Section 10-4-100, et seq.; a fraternal benefit society licensed pursuant to Section 27-34-1, et seq.; a health maintenance organization licensed pursuant to Section 27-21A-1, et seq.; and any other entity providing a plan of health insurance or health benefits whether or not subject to state insurance regulation. For the purposes

of this Regulation, carrier does not include health benefit plans covering eligible employees of small employers when these plans are sold exclusively through the vehicle of associations.

(5) Commissioner. The Alabama Commissioner of Insurance.

(6) Dependent. A spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the enrollee, and an unmarried child of any age who is medically certified as disabled and dependent upon the enrollee.

(7) Eligible employee. An employee who works on a full-time basis with a normal work week of thirty (30) or more hours, except that at the employer's sole discretion, the term shall also include an employee who works on a full-time basis with a normal work week of anywhere between at least seventeen and one-half (17.5) and thirty (30) hours, so long as this eligibility criterion is applied uniformly among all of the employer's employees. The term includes a sole proprietor, a partner of a partnership, and may include an independent contractor, if the sole proprietor, partner or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include an employee who works on a temporary or substitute basis or who works less than seventeen and one-half (17.5) hours per week. Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered "eligible employees" for purposes of minimum participation requirements pursuant to Subdivision (4) of Subsection (c) of Section 7 of this Regulation.

(8) Established geographic service area. A geographic area, as approved by the commissioner and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.

(9) Family composition. Enrollee; enrollee, spouse and children; enrollee and spouse; or enrollee and children.

(10) Geographic area. An area approved by the commissioner and used for adjusting the rates for a health benefit plan.

(11) Health benefit plan.

a. Any hospital or medical policy or certificate, major medical expense insurance, subscriber contract or contract of insurance provided by a prepaid hospital or medical service plan, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, Medicare supplement, long-term care, disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance. Health benefit plan does include short-term and catastrophic health insurance policies, and a policy that pays on a cost-incurred basis, except as otherwise specifically exempted in this definition.

b. "Health benefit plan" shall not include policies or certificates of specified disease, hospital confinement indemnity or limited benefit health insurance, provided that the carrier offering such policies or certificates complies with the following:

1. The carrier files on or before March 1 of each year a certification with the commissioner that contains the statement and information described in Subparagraph 2.

2. The certification required in Subparagraph 1. shall contain both of the following:

(i) A statement from the carrier certifying that policies or certificates described in this paragraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.

(ii) A summary description of each policy or certificate described in this paragraph, including the average annual premium rates (or range of premium rates in cases where premiums vary by age or other factors) charged for such policies and certificates in this state.

3. In the case of a policy or certificate that is described in this paragraph and that is offered for the first time in this state on or after the effective date of the Regulation, the carrier files with the commissioner the information and statement required in Subparagraph 2. at least thirty (30) days prior to the date such a policy or certificate is issued or delivered in this state.

(12) Late enrollee. An eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty (30) days. However, an eligible employee or dependent shall not be considered a late enrollee in any of the following instances:

a. The individual meets each of the following:

1. The individual was covered under qualifying previous coverage at the time of the initial enrollment.

2. The individual lost coverage under qualifying previous coverage as a result of cessation of employer contribution, termination of employment or eligibility, involuntary termination of the qualifying previous coverage, or death of a spouse or divorce.

3. The individual requests enrollment within thirty (30) days after termination of the qualifying previous coverage or the change in conditions that gave rise to the termination of coverage.

b. Where provided for in contract or where otherwise provided in state law, the individual enrolls during the specified bona fide open enrollment period.

c. The individual is employed by an employer which offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.

d. A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee’s health benefit plan and request for enrollment is made within thirty (30) days after issuance of the court order.

e. The individual changes status from not being an eligible employee to becoming an eligible employee and requests enrollment within thirty (30) days after the change in status.

(13) Limited benefit health insurance. That form of coverage that pays stated predetermined amounts for specific services or treatments or pays a stated predetermined amount per

day or confinement for one or more named conditions, named diseases or accidental injury.

(14) Premium. All moneys paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.

(15) "Qualifying previous coverage" and "qualifying existing coverage." Benefits or coverage provided under any of the following:

a. Medicare, Medicaid, CHAMPUS, TRICARE, Indian Health Service program or any other similar publicly sponsored program.

b. A group health insurance or health benefit arrangement that provides benefits similar to or exceeding benefits provided under the Alabama Health Insurance Plan established in the Act and implemented in Regulation No. 115.

c. An individual health insurance policy, including coverage issued by a health maintenance organization, prepaid hospital or medical care plan, or for fraternal benefit society, that provides benefits similar to or exceeding the benefits provided under the Alabama Health Insurance Plan established in the Act and implemented in Regulation No. 115.

(16) Rating period. The calendar period for which premium rates established by small employer carrier are assumed to be in effect.

(17) Restricted network provision. Any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier to provide health care services to covered individuals.

(18) Small employer. Any person, firm, corporation, partnership, association, political subdivision, or self-employed individual that is actively engaged in business that, on at least fifty percent (50%) of its working days during the preceding calendar quarter, employed no less than two and no more than 50 eligible employees, with a normal work week of thirty (30) or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-

employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered one employer. Subsequent to the issuance of a health benefit plan to a small employer and for the purpose of determining continued eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of this Regulation that apply to a small employer shall continue to apply at least until the plan anniversary following the date the small employer no longer meets the requirements of this definition.

(19) The Act. Alabama Act No. 97-713 (Senate Bill 688, 1997 Regular Legislative Session).
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
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482-1-116-.05 Restrictions Relating To Premium Rates.

(a) For rating periods beginning on and after the effective date of this regulation, premium rates for health benefit plans subject to this Regulation shall be subject to all of the following provisions:

(1) The small employer carrier shall develop its base rate or rates utilizing an adjusted community rating methodology and may only vary the adjusted community rate or rates for one or more of the following:

a. Geographic area.

b. Family composition.

c. Age.

d. Sex.

(2) The adjustment for age in Paragraph c. of Subdivision (1) in Subsection (a) above may not use age brackets

smaller than five-year increments and these shall begin with age twenty (20) and end with age sixty-five (65).

(3) The small employer carrier shall be permitted to develop separate rates for individuals age sixty-five (65) or older for coverage for which Medicare is the primary payer and coverage for which Medicare is not the primary payer. Both rates shall be subject to the requirements of this Subsection (a).

(4) The adjustment for age permitted in Paragraph c. of Subdivision (1) in Subsection (a) above for any age group shall not result in a rate per enrollee of more than four hundred percent (400%) of the lowest rate of any age group, other rating characteristics being the same.

(5)a. The small employer carrier shall be permitted to adjust the base rate or rates developed according to the requirements of Subdivisions (1) through (4) in Subsection (a) above by a group health characteristic factor and a group size factor as set forth in this subdivision.

b. The small employer carrier may vary the group health characteristic according to the general health characteristics of the group written but may not vary the factor by industry group. The maximum group health characteristic factor (F) which may be applied to health benefit plans issuing or renewing on and after the effective date of this regulation is within a range of $.75 \leq F \leq 1.25$.

c. If a carrier employs a group size factor, the factor (G) associated with a group size classification which may be applied to health benefit plans issuing or renewing on and after the effective date of this regulation must be within a range of $.85 \leq G \leq 1.15$.

(b) The premium charged for a health benefit plan may not be adjusted more frequently than annually except that the rates may be changed to reflect any one or more of the following:

(1) Changes to the enrollment of the small employer.

(2) Changes to the family composition of the employee.

(3) Changes to the health benefit plan requested by the small employer.

(4) Changes to the health benefit plan mandated by the legislature and subject to any time constraint in enactment.

(c) Premium rates for health benefit plans shall comply with the requirements of this section.

(d) Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans, except to the extent permitted in Subdivision (5) of Subsection (a) above.

(e) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restriction of benefits to network providers results in substantial differences in claim costs.

(f) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of all of the following:

(1) The provisions of the health benefit plan concerning the small employer carrier’s right to change premium rates and the factors, other than claim experience, that affect changes in premium rates.

(2) The provisions relating to renewability of policies and contracts.

(3) The provisions relating to any preexisting condition provision.

(4) A listing of and descriptive information about all benefit plans for which the small employer is qualified.

(g)(1) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly

accepted actuarial assumptions and are in accordance with sound actuarial principles.

(2) Each small employer carrier shall file with the Commissioner annually on or before March 15, both of the following:

a. An actuarial certification certifying that the carrier is in compliance with this Regulation and that the rating methods of the small employer carrier are actuarially sound. The certification shall be in a form and manner, and shall contain such information, as specified by the Commissioner. A copy of the certification shall be retained by the small employer carrier at its principal place of business.

b. A market data and experience report containing information on the market penetration, premium rate trend and claims trend under health benefit plans offered by the carrier. The format and content of the report shall be as specified by the Commissioner.

(3) A small employer carrier shall make the information and documentation described in Subdivision (1) available to the Commissioner upon request. Except in cases of violations of this Regulation, the information shall be considered proprietary and trade secret information and shall not be subject to disclosure by the commissioner to persons outside of the Alabama Department of Insurance except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction.

(h) Health benefit plans may not establish individual eligibility rules based on health status related factors. Such factors include, but are not limited to, current medical condition (physical and mental), past claims experience, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), and disability.

(i) The requirements of this section shall apply to all health benefit plans issued or renewed on or after the effective date of this Regulation.

Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective

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482-1-116-.06 Renewability Of Coverage.

(a) A health benefit plan subject to this Regulation shall be renewable with respect to all eligible employees or dependents, at the option of the small employer, except in any of the following cases:

(1) Nonpayment of the required premiums.

(2) Fraud or intentional misrepresentation of a material fact by the small employer or, with respect to coverage of individual insureds, the insureds or their representatives.

(3) Noncompliance with the carrier's minimum participation requirements.

(4) Noncompliance with the carrier's employer contribution requirements.

(5) The small employer carrier elects to nonrenew all of its health benefit plans delivered or issued for delivery to small employers in this state. In such a case the carrier shall:

a. Provide advance notice of its decision under this Subdivision to the commissioner in each state in which it is licensed; and

b. Provide notice of the decision not to renew coverage to all affected small employers, insureds and to the commissioner in each state in which an affected insured individual is known to reside at least 180 days prior to the nonrenewal of any health benefit plans by the carrier. Notice to the commissioner under this Paragraph shall be provided at least three (3) working days prior to the notice to the affected small employers.

(6) The commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders; or would impair the carrier's ability to meet its contractual obligations. In such instance, the commissioner shall assist affected small employers

in finding replacement coverage. In the case of a health maintenance organization, the decision by the Commissioner shall have been made in consultation with, and with the approval of, the State Health Officer.

(7) The small employer carrier elects to discontinue the sale of the health benefit plan to small employers in this state. In such a case, the carrier shall:

a. Provide 90 days advance notice of its decision to the small employers covered by the discontinued health benefit plan in this state; and

b. Offer each affected small employer an option to purchase any other small group health benefit plan offered by the carrier in this state.

c. The offer in Paragraph b. must be made uniformly to all affected small employers in this state without regard to health status related factors.

(8) Association membership ceases, provided that the rules for cessation are applied uniformly without regard to health status related factors.

(b) A small employer carrier that elects not to renew a health benefit plan under Subdivision (5) of Subsection (a) shall be prohibited from writing new business in the small employer market in this state for a period of five (5) years from the date of notice to the commissioner.

(c) In the case of a small employer carrier doing business in one established geographic service area of the state, the rules set forth in this subsection shall apply only to the carrier's operations in that service area.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.07 Availability Of Coverage.

(a)(1) Every small employer carrier shall, as a condition of transacting business in this state with small employers, actively offer to small employers all health benefit plans it actively markets to small employers in this state. A small employer carrier shall be considered to be actively marketing a health benefit plan if it offers that plan to any small employer not currently receiving a health benefit plan by such small employer carrier.

(2) Subject to Subdivision (1), a small employer carrier shall issue any health benefit plan to any eligible small employer that applies for such plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this Regulation.

(b)(1) A small employer carrier shall file with the commissioner, in a format and manner prescribed by the commissioner, the health benefit plans to be used by the carrier. A health benefit plan filed pursuant to this requirement may be used by a small employer carrier beginning thirty (30) days after it is filed unless the commissioner disapproves its use.

(2) The commissioner at any time may, after providing notice and an opportunity for a hearing to the small employer carrier, disapprove the continued use by a small employer carrier of a health benefit plan on the grounds that the plan does not meet the requirements of this Regulation.

(c) Health benefit plans covering small employers shall comply with all of the following provisions:

(1) A health benefit plan shall not deny, exclude or limit benefits for a covered individual for losses incurred more than twelve (12) months following the effective date of the individual’s coverage due to a preexisting condition. A health benefit plan shall not define a preexisting condition more restrictively than a condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage. For purposes of this subsection, pregnancy may not be considered a preexisting condition under a health benefit plan and no preexisting condition shall apply to a dependent newborn or adopted child if covered within 30 days of birth or adoption.

(2) A small employer carrier shall waive any carrier waiting period applicable to a preexisting condition exclusion or limitation period with respect to particular services in a health benefit plan for the period of time an individual was previously covered by qualifying previous coverage provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of new coverage. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier, or for the normal application and enrollment process following employment or other triggering event for eligibility. A carrier that does not use preexisting condition limitations in any of its health benefit plans may impose an affiliation period. "Affiliation period" means a period of time not to exceed sixty (60) days for new entrants and not to exceed ninety (90) days for late enrollees during which no premiums shall be collected and coverage issued would not become effective. This Subdivision does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan, provided that any carrier-imposed waiting period be no longer than sixty (60) days and be used in lieu of a preexisting condition exclusion.

(3) A health benefit plan may exclude coverage for late enrollees for preexisting conditions for a period not to exceed eighteen (18) months.

(4)a. Except as provided in this subsection, requirements used by a small employer carrier in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the small employer carrier.

b. A small employer carrier shall not require a minimum participation level greater than:

1. One hundred percent (100%) of eligible employees working for groups of three (3) or less employees; and

2. Seventy-five percent (75%) of eligible employees working for groups with more than three (3) employees.

c. In applying minimum participation requirements with respect to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying

existing coverage in determining whether the applicable percentage of participation is met.

d. A small employer carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(5)a. If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier shall not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group.

b. Except as permitted under Subdivisions (1) and (3) of this subsection, a small employer carrier shall not modify a health benefit plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan.

(d)(1) A small employer carrier shall not be required to offer coverage or accept applications pursuant to Subsection (a) in the case of any of the following:

a. To a small employer, where the small employer is not physically located in the carrier’s established geographic service area.

b. To an employee, when the employee does not work or reside within the carrier’s established geographic service area.

c. Within an area where the small employer carrier reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not have the capacity within its established geographic service area to deliver service adequately to the members of such groups because of its obligations to existing group policyholders and enrollees.

(2) A small employer carrier that cannot offer coverage pursuant to Paragraph c. of Subdivision (1) may not offer coverage in the applicable area to new cases of employer groups with less than two or more than 50 eligible employees or

to any small employer groups until the later of 180 days following each such refusal or the date on which the carrier notifies the commissioner that it has regained capacity to deliver services to small employer groups.

(e) A small employer carrier shall not be required to provide coverage to small employers pursuant to Subsection (a) for any period of time for which the Commissioner determines that requiring the acceptance of small employers in accordance with the provisions of Subsection (a) would place the carrier in a financially impaired condition.

Author: Reyn Norman, Associate Counsel
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482-1-116-.08 Standards To Assure Fair Marketing.

(a) Subject to Subdivision (1) of Subsection (a) of Section 7, each small employer carrier shall actively market all health benefit plans sold by the carrier to eligible small employers in the state.

(b)(1) Except as provided in Subdivision (2), no small employer carrier or producer shall, directly or indirectly, engage in the following activities:

a. Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

b. Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) The provisions of Subdivision (1) shall not apply with respect to information provided by a small employer carrier or producer to a small employer regarding the established

geographic service area or a restricted network provision of a small employer carrier.

(c)(1) Except as provided in Subdivision (2), no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with a producer that provides for or results in the compensation paid to a producer for the sale of a health benefit plan to be varied because of the initial or renewal health status, claims experience, industry, occupation or geographic location of the small employer.

(2) Subdivision (1) shall not apply with respect to a compensation arrangement that provides compensation to a producer on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

(d) No small employer carrier may terminate, fail to renew or limit its contract or agreement of representation with a producer for any reason related to the initial or renewal health status, claims experience, occupation or geographic location of the small employers placed by the producer with the small employer carrier.

(e) A small employer carrier or producer may not induce or otherwise encourage a small employer to separate or otherwise exclude an employee or dependent from health coverage or benefits provided in connection with the employee’s employment.

(f) Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial.

(g)(1) A violation of this section by a small employer carrier or a producer shall be considered an unfair trade practice pursuant to Section 27-12-2, Code of Ala. 1975.

(2) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative, marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

Author: Reyn Norman, Associate Counsel

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482-1-116-.09 Status Of Carriers As Small Employer Carriers.

(a) Within thirty (30) days after the effective date of the Act, each carrier providing health benefit plans in this state shall make a filing with the Commissioner indicating whether the carrier intends to operate as a small employer carrier in this state under the terms of this regulation.

(b) Subject to Subsection (c), a carrier shall not offer health benefit plans to small employers, or continue to provide coverage under health benefit plans previously issued to small employers in this state, unless the filing provided pursuant to Subsection (a) indicates that the carrier intends to operate as a small employer carrier in this state.

(c) If the filing made pursuant Subsection (a) indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to small employers in this state only if the carrier complies with all of the following provisions:

(1) The carrier complies with the requirements of this Regulation with respect to each of the health benefit plans previously issued to small employers by the carrier.

(2) The carrier provides coverage to each new entrant to a health benefit plan previously issued to a small employer by the carrier. The provisions of this Regulation shall apply to the coverage issued to such new entrants.

(3) The carrier complies with the requirements of Sections 10 and 11 of this regulation as they apply to small employers whose coverage has been terminated by the carrier and to individuals and small employers whose coverage has been limited or restricted by the carrier.

(d) If the filing made pursuant to Subsection (a) indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier shall be precluded from operating as a small employer carrier in this state, except as provided for in Subsection (c), for a period of five (5) years from the date of the filing. Upon a written request from such a carrier, the Commissioner may reduce the period provided for in the previous sentence if the Commissioner finds that permitting the carrier to operate as a small employer carrier would be in the best interests of the small employers in the state.

Author: Reyn Norman, Associate Counsel
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482-1-116-.10 Restoration Of Terminated Coverage.

(a)(1) Except as provided in Subdivision (2), a small employer carrier shall, as a condition of continuing to transact business in this state with small employers, offer to provide a health benefit plan as described in Subsection (c) to any small employer whose coverage was terminated or not renewed by such small employer carrier after January 31, 1997.

(2) The offer required under Subdivision (1) shall not be required with respect to a health benefit plan that was not renewed for either of the following reasons:

a. The health benefit plan was not renewed for reasons permitted in Section 6 of this Regulation.

b. The nonrenewal was a result of the small employer voluntarily electing coverage under a different health benefit plan.

(b) The offer made under Subsection (a) shall occur not later than thirty (30) days after a carrier indicates its intention to operate as a small employer carrier in this state pursuant to Subsection (a) of Section 9. A small employer shall be given at least sixty (60) days to accept an offer made pursuant to Subsection (a).

(c) A health benefit plan provided to a terminated small employer pursuant to Subsection (a) shall meet all of the following conditions:

(1) The health benefit plan shall contain benefits that are identical to the benefits in the health benefit plan that was terminated or nonrenewed.

(2) The health benefit plan shall not be subject to any waiting periods (including exclusion periods for preexisting conditions) or other limitations on coverage that exceed those contained in the health benefit plan that was terminated or nonrenewed. In applying such exclusions or limitations, the health benefit plan shall be treated as if it were continuously in force from the date it was originally issued to the date that it is restored pursuant to this section.

(3) The health benefit plan shall not be subject to any provision that restricts or excludes coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan.

(4) The health benefit plan shall provide coverage to all employees who are eligible employees as of the date the plan is restored. The carrier shall offer coverage to each dependent of such eligible employees.

(5) The premium rate for the health benefit plan shall be no more than the premium rate charged to the small employer on the date the health benefit plan was terminated or nonrenewed; provided that, if the number or case characteristics of the eligible employees (or their dependents) of the small employer has changed between the date the health benefit plan was terminated or nonrenewed and the date that it is restored, the carrier may adjust the premium rates to reflect any changes in case characteristics of the small employer. If the carrier has increased premium rates for other similar groups with similar coverage to reflect general increases in health care costs and utilization, the premium rate may further be adjusted to reflect the lowest such increase given to a similar group. The premium rate for the health benefit plan may not be increased to reflect any changes in risk characteristics of the small employer group until one year after the date the health benefit plan is restored. Any such increase shall be subject to the provisions of Section 5 of this Regulation.

Author: Reyn Norman, Associate Counsel

Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.11 Restrictive Riders. A restrictive rider, endorsement or other provision that would violate the provisions of Paragraph b. of Subdivision (5) of Subsection (c) of Section 7 of this Regulation and that was in force on the effective date of this regulation may not remain in force beyond the first anniversary date of the health benefit plan subject to the restrictive provision that follows the effective date of this regulation. A small employer carrier shall provide written notice to those small employers whose coverage will be changed pursuant to this subsection at least thirty (30) days prior to the required change to the health benefit plan.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.12 Separability. If any provision of this Regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the Regulation and the application of its provisions to other persons or circumstances shall not be affected thereby.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-116-.13 Effective Date. The provisions of this Regulation shall become effective October 1, 2001, upon its approval by the Commissioner of Insurance, with the concurrence of the State Board of Health, and upon its having been on file as a public document in the office of the Secretary of State for ten days.
Author: Reyn Norman, Associate Counsel
Statutory Authority: Code of Ala. 1975, §27-52-21.
History: **New Rule:** September 3, 1997; effective September 28, 1997. **Amended:** October 14, 1999; effective January 1, 2000. **Amended:** September 12, 2001; effective October 1, 2001. Filed with LRS September 14, 2001. Rule is not subject to the Alabama Administrative Procedure Act.