

**WEST VIRGINIA
SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 73


TITLE OF RULE BEING PROPOSED: Small Employer Eligibility Requirements

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 357

SECTION 64-7-2(h), PASSED ON April 9, 2005

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 6, 2005


Authorized Signature

PROMULGATION HISTORY

WEST VIRGINIA INSURANCE COMMISSION

TITLE

SMALL EMPLOYER ELIGIBILITY REQUIREMENTS

TITLE 114, SERIES 73

7/21/04	Notice of Comment Period Filed
8/20/04	Last Date Comments Were Received
8/27/04	Agency Approved Legislative Rule Filed
12/05/04	Date Reviewed by Legislative Rule-Making Review Committee
5/06/05	Filing Date
5/06/05	Effective Date

114CSR73

WEST VIRGINIA LEGISLATIVE RULE

INSURANCE COMMISSIONER

SERIES 73

SMALL EMPLOYER ELIGIBILITY REQUIREMENTS

Section

- 114-73-1. General.
- 114-73-2. Definitions.
- 114-73-3. Eligibility of Small Employers.
- 114-73-4. Enforcement.

TITLE 114
WEST VIRGINIA LEGISLATIVE RULE **FILED**

INSURANCE COMMISSIONER 2005 MAY -6 P 4: 02

SERIES 73 OFFICE WEST VIRGINIA
SMALL EMPLOYER ELIGIBILITY REQUIREMENTS DEPARTMENT OF STATE

§114-73-1. General.

1.1. Scope. -- The purpose of this rule is to facilitate the offering of a health benefit plan under W. Va. Code §33-16D-16 by any licensed carrier that accesses a health care provider network to deliver services, including health maintenance organizations, prepaid limited health services organizations, hospital service corporations, medical service corporations, dental service corporations, health service corporations and health care corporation, and to prevent manipulation by small employers of the criteria for determining eligibility to purchase a health benefit plan covered by W. Va. Code §33-16D-16.

1.2. Authority. -- This rule is promulgated pursuant to the authority of W. Va. Code §§33-2-10 and 33-16D-16(a)(4).

1.3. Filing Date. -- May 6, 2005.

1.4. Effective Date. -- May 6, 2005.

§114-73-2. Definitions.

2.1. "Commissioner" means the West Virginia insurance commissioner.

2.2. "Health benefit plan" means a plan as defined in W. Va. Code §33-16D-1a(h) and offered by a carrier at rates approved by the Commissioner pursuant to W. Va. Code §33-16D-16.

2.3. "Small employer" means employer as defined in W. Va. Code §33-16D-2(r).

2.4. "Carrier" means any health insurer, as defined in W. Va. Code §33-16D-2(s), that offers a health benefit plan to small employers at rates approved by the Commissioner pursuant to W. Va. Code §33-16D-16.

§114-73-3. Eligibility of Small Employers.

3.1. A small employer is eligible to purchase a health benefit plan subject to the following conditions:

a. On or before December 11, 2004, a small employer is eligible to purchase a health benefit plan if the small employer has not provided health care coverage for its employees at any time during a period beginning December 11, 2003 through the date on which the health benefit plan is purchased.

b. After December 11, 2004, a small employer is eligible to purchase a health benefit plan if the small employer has not provided health care coverage for its employees for twelve consecutive months prior to obtaining the health benefit plan.

c. The small employer will pay at least fifty percent (50%) of individual employee coverage for its eligible employees.

d. Every small employer seeking to obtain a health benefit plan must furnish to the carrier an Affidavit, in a form acceptable to the Commissioner, from which the carrier may verify the eligibility of the small employer. A copy of the affidavit must be filed with the Commissioner. The provisions contained in the Affidavit shall include but not be limited to the following:

1. As applicable, a representation that the small employer has never provided health care coverage for its employees or the date on which the small employer last provided health care coverage for its employees.

2. For an employer that was in existence for all of the preceding calendar year, the average number of employees that were employed during the preceding calendar year and the number of employees employed on the first day of the small employer's group health plan year.

3. A representation that the majority of eligible employees are employed in West Virginia or, if no state contains a majority of eligible employees, that the primary business location of the small employer is in West Virginia.

4. A representation that the small employer is actively engaged in business in the state of West Virginia.

5. A representation that the small employer was not formed for the purpose of securing health benefits coverage under W. Va. Code §33-16D-16.

6. A disclosure of the true and accurate name(s) of the business entity, including but not limited to DBAs and trade names.

7. As applicable, a disclosure of the following changes to the small employer if the changes occurred after January 1, 2004:

A. Any business name changes;

B. Amendments to or restatement of the articles of incorporation;

- C. Reincorporations;
- D. Mergers with other businesses;
- E. Dissolutions;
- F. Withdrawals;
- G. Reinstatements;
- H. Conversions; and

I. Any other changes relating to the structure, ownership or governance of the small employer.

Copies of documents associated with the disclosures listed in subparagraphs A through I of this paragraph must be provided to the carrier by attachment to the Affidavit.

§114-73-4. Enforcement.

4.1. Suspected violations of this rule may be referred to the Commissioner's fraud unit pursuant to W. Va. Code §33-43-1 et seq. for investigation and other actions authorized thereunder.