

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

Form #7

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Filing Date

FILED

2006 AUG 10 A 11:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Offices of the Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code §33-2-10 & 33-15D-7

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

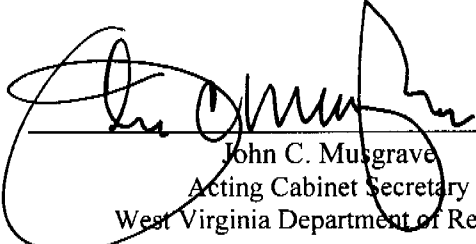
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 78

TITLE OF RULE BEING AMENDED: Individual Limited Health Benefits Plans

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

PLEASE SEE ATTACHED



John C. Musgrave
Acting Cabinet Secretary
West Virginia Department of Revenue

Use additional sheets if necessary

**Title 114, Series 78 - Emergency Rule
Individual Limited Health Benefits Plans**

FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY:

H.B. 4021, which was enacted during the 2006 regular legislative session, provides that the Insurance Commissioner "shall promulgate emergency rules [for individual limited health benefits plans] ... to prescribe requirements regarding ratemaking, which may include rules establishing loss ratio standards for individual plans; to place further limitations on the eligibility of individuals; to determine what medical treatments, procedures and related health services benefits must be included in such individual plans; and to provide for any other matters deemed necessary to further the intent of this article." (W. Va. Code §33-15D-8) This emergency rule is being proposed in order to meet the requirements of this newly enacted code section.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 10, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER
ATTN: Legal Division
1124 Smith Street
Post Office Box 50540
Charleston, West Virginia 25305-0540

EMERGENCY RULE TITLE: INDIVIDUAL LIMITED HEALTH BENEFIT PLANS -
Title 114, Series 78

1. Date of Filing:

August 10, 2006

2. Statutory authority for promulgating emergency rule:

S.B. 4021 (RS 2006) provides in relevant part:

"The commissioner shall promulgate emergency and legislative rules under the provisions of article three, chapter twenty-nine-a of this code on or before the first day of September, two thousand six, to prescribe requirements regarding ratemaking, which may include rules establishing loss ratio standards for individual plans; to place further limitations on the eligibility of individuals; to determine what medical treatments, procedures and related health services benefits must be included in such individual plans; and to provide for any other matters deemed necessary to further the intent of this article. ..." W. Va. Code §33-15D-8 (2006)

3. Date of filing of proposed legislative rule:

June 5, 2006

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

New language (mirroring the agency-approved legislative rule filed July 27, 2006).

5. **Has the same or similar emergency rule previously been filed and expired?**

No.

6. **State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety and welfare.**

N/A

7. **If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.**

Yes, W. Va. Code §33-15D-8 requires that the Commissioner promulgate an emergency rule on or before September 1, 2006.

8. **State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to public interest.**

N/A

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INDIVIDUAL LIMITED HEALTH BENEFIT PLANS

TITLE 114, SERIES 78

BRIEF SUMMARY OF EMERGENCY RULE

H.B. 4021 (RS 2006) authorized the Insurance Commissioner to approve individual limited benefit health insurance plans that are exempt from certain state-mandated benefit requirements. The plans are available only to individuals and families who have not had health insurance coverage in the prior twelve months. Rates and forms are subject to the Commissioner's approval. This rule sets forth the definition of eligible individuals, establishes requirements for ratemaking and determination of benefits, and mandates the inclusion of certain benefits and benefit levels.

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INDIVIDUAL LIMITED HEALTH BENEFIT PLANS

TITLE 114, SERIES 78

STATEMENT OF CIRCUMSTANCES

H.B. 4021, which was enacted during the 2006 regular legislative session, specifically provided that the Insurance Commissioner "shall promulgate emergency rules [for individual limited health benefits plans] ... to prescribe requirements regarding ratemaking, which may include rules establishing loss ratio standards for individual plans; to place further limitations on the eligibility of individuals; to determine what medical treatments, procedures and related health services benefits must be included in such individual plans; and to provide for any other matters deemed necessary to further the intent of this article."

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Individual Limited Health Benefit Plans (Title 114 - Series 78)

Type of Rule: Legislative Interpretive Procedural Emergency

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: _____

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The Insurance Commission believes it can perform its duties under this legislation using its existing resources.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Individual Limited Health Benefit Plans (Title 114 - Series 78)

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The Insurance Commission is already engaged in approving rates and forms for health insurance plans and can perform the additional duties required by this legislation with its existing resources. The plans authorized in this legislation are exempt from premium tax and so they will not contribute any additional revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

None.

Date: August 9, 2006

Signature of Agency Head or Authorized Representative



Jane L. Cline, Insurance Commissioner

114CSR78

**EMERGENCY RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 78
INDIVIDUAL LIMITED HEALTH BENEFITS PLANS**

Section

- 114-78-1. General.
- 114-78-2. Applicability.
- 114-78-3. Rate Filing.
- 114-78-4. Form Filing.
- 114-78-5. Eligibility.
- 114-78-6. Benefits.
- 114-78-7. Penalties and Enforcement.
- 114-78-8. Severability.

FILED

114CSR78

2006 AUG 10 A 11: 04

**EMERGENCY RULE
OFFICES OF THE INSURANCE COMMISSIONER**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**SERIES 78
INDIVIDUAL LIMITED HEALTH BENEFITS PLANS**

§114-78-1. General.

1.1. Scope. -- The purpose of this emergency rule is to establish requirements for information and data to be provided with the filing of rates and rate adjustments and forms for individual limited health benefit plans, to establish minimum benefits for such plans and to define eligibility for individuals to obtain coverage under the plans.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-15D-7.

1.3. Filing Date. --

1.4. Effective Date. --

§114-78-2. Applicability.

2.1. This rule applies to all individual limited health benefits plans issued pursuant to article fifteen-d, chapter thirty-three of the West Virginia Code and to all insurers offering such plans as of the effective date of this rule.

§114-78-3. Rate Filing.

3.1. All of the provisions of 114CSR26 apply to individual limited benefits plans except 114CSR26-1.

§114-78-4. Form Filing.

4.1. All of the provisions of 114CSR67 apply to individual limited benefits plans.

§114-78-5. Eligibility.

5.1. An insurer issuing individual limited benefits health insurance policies shall, as part of the application process, require each applicant to provide evidence of eligibility in a form satisfactory to the Insurance Commissioner and it shall retain the evidence of eligibility during the entire time the policy remains in effect.

5.2 An individual limited health benefits plan may only be offered to an adult between the

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ages of eighteen and sixty-four, inclusive, who:

a. Has not had a health benefits plan covering him or her for at least the prior twelve consecutive months: Provided, That such a plan may not be offered to an employee of an employer that offers a health benefits plan to its employees unless that employee does not qualify for coverage under such employer plan; or

b. Has lost coverage due to a qualifying event. A qualifying event shall include loss of coverage due to: (i) emancipation and resultant loss of coverage under a parent's or guardian's plan; (ii) divorce and loss of coverage under the former spouse's plan; (iii) termination of employment and resultant loss of coverage under an employer group plan, except for loss of employment for gross misconduct; or (iv) involuntary termination of coverage under a group health benefits plan, except for termination due to nonpayment of premiums or fraud by the insured.

5.3. Every individual limited health benefits plan may limit eligibility on the basis of health status and an individual who has been treated for a health condition in the prior twelve months may have that condition excluded from coverage for the first twelve months of the policy term.

§114-78-6. Benefits.

6.1. Every policy issued hereunder shall have an annual maximum benefit of at least three thousand dollars per covered person. The annual maximum benefit may hereafter be changed by order of the Insurance Commissioner.

6.2. Every policy issued hereunder shall provide benefits for at least the following services:

- a. Emergency care.
- b. Hospital benefits, including physician services while in the hospital.
- c. Outpatient benefits, including lab and diagnostics.
- d. Preventive care benefits.
- e. Primary care benefits.

6.3. Every policy that does not cover prescription benefits as part of its basic coverage

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shall offer prescription benefits coverage as an option.

§114-78-7. Penalties and Enforcement.

7.1. Insurers issuing policies hereunder shall be subject to the examination and investigation powers of the Insurance Commissioner set forth in article two, chapter thirty-three of the West Virginia Code, and the enforcement provisions of W. Va. Code §33-2-11. Insurers issuing policies hereunder shall be subject to the provisions of article eleven, chapter thirty-three of the West Virginia Code.

§114-78-8. Severability.

8.1. If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected.