

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

Form #3

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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY WV Code §§33-2-10, 33-16F-3 & 33-16F-5

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X

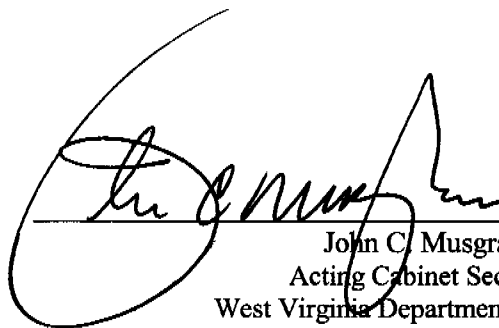
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 79

TITLE OF RULE BEING PROPOSED: Group Limited Health Benefits Plans

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



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

44.60

## 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:** July 27, 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

**LEGISLATIVE RULE TITLE:** Group Limited Health Benefits Plans  
Title 114, Series 79

**1. Authorizing statute(s) citation:**

WV Code §§33-2-10, 33-16F-3 & 33-16F-5

**2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:**

June 5, 2006 - Comment Period.

**b. What other notice, including advertising, did you give of the hearing?**

None.

**c. Date of Public Hearing(s) or Public Comment Period ended:**

Comment period ended July 5, 2006.

**d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached   X   No comments received           

**e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)**

July 27, 2006

- f. **Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)**

Charley Dunn, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: (304) 558-6279, Ext. 1154  
Fax: (304) 558-1362  
E-mail: charley.dunn@wvinsurance.gov

- g. **IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)**

Same.

3. **If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: N/A**

- a. **Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.**

N/A

- b. **Date of hearing or comment period:**

N/A

- c. **On what date did you file in the State Register the findings and determinations required together with the reasons therefor?**

N/A

- d. **Attach findings and determinations and reasons:**

N/A

Insurance Commissioner  
Title 114, Series 79

ATTACHMENT TO QUESTION 2 (d):

Subsection 2.

A comment was received from the West Virginia HMO Association suggesting that language be added to clarify that the rule does not apply to policies defined as an excepted benefit in W. Va. Code § 33-16-1a(2). This suggestion is adopted.



**SPILMAN THOMAS & BATTLE, PLLC**

ATTORNEYS AT LAW

(304) 340-3829  
tcox@spilmanlaw.com

July 5, 2006

Charles Dunn  
Associate Counsel  
Offices of the Insurance Commissioner  
PO Box 50540  
Charleston, WV 25305-0540

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JUL 05 2006

WV INSURANCE COMMISSION

RE: Proposed Rule 114 CSR 79

Dear Mr. Dunn,

On behalf of the West Virginia HMO Association ("WV HMO Assoc."), we appreciate the opportunity to comment on proposed "Group Limited Health Benefits Plans," as set forth in proposed 114 CSR 79.

We appreciate the efforts of the West Virginia Office of the Insurance Commissioner in helping the WV HMO Assoc. to obtain passage of this legislation and in promulgating these regulations. For your ease of reference, our suggested deletions are highlighted with ~~strike-through text~~ and proposed additions are highlighted in underlined text.

114-79-2 Applicability

We would propose the inclusion of the following language at the end of this section "2.1" for clarity:

This rule does not apply to policies defined as an "excepted benefit" in W. Va. Code § 33-16-1a(2).

We assume that provisions involving: "applicability of other provisions," "filing and form approval time frames" "disclaimer," requirements and "exemption from premium taxes" are not included in the rule, since these requirements are set out in the statute.

Thank you for the opportunity to provide comments on this proposed regulation.

Sincerely,

T. Randolph Cox, Counsel  
West Virginia HMO Association

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JUL 05 2006

WV INSURANCE COMMISSION

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Insurance Commissioner  
Legislative Rule  
Title 114, Series 79

**GROUP LIMITED HEALTH BENEFITS PLANS**

**TITLE 114, SERIES 79**

**BRIEF SUMMARY OF RULE**

H.B. 4847 (RS 2006) authorized the Insurance Commissioner to approve group limited benefit health insurance plans which are exempt from certain state mandated benefit requirements. The plans are available only to cover part-time, temporary or seasonal employees that are either ineligible for coverage under any of their employer's group health benefits plans or are employed by an employer that does not offer a group health benefits plan to any of its employees. Rates and forms are subject to the commissioner's approval and rules regarding ratemaking, definition of eligible individuals, determination of benefits and other matters are authorized. This rule fulfills the commissioner's responsibility in that regard.

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**GROUP LIMITED HEALTH BENEFIT PLANS**

**TITLE 114, SERIES 79**

**STATEMENT OF CIRCUMSTANCES**

H.B. 4847, which was enacted during the 2006 regular legislative session, specifically provided that the Insurance Commissioner shall promulgate emergency rules ... to prescribe requirements regarding ratemaking, which may include rules establishing loss ratio standards for group plans; to place further limitations on the eligibility of classes of employees or employees within a group; to determine benefits that must be included in such group plans, except that the Commissioner may not exclude from coverage any benefits mandated by federal law; and to provide for any other matters deemed necessary to further the intent of this article. An emergency rule mirroring this legislative rule will be filed, but it is necessary to file this legislative rule now in order to allow it to be approved by the 2007 Legislature and thereby avoid a lapse in effectiveness when the emergency rule expires after fifteen (15) months.

APPENDIX B  
***FISCAL NOTE FOR PROPOSED RULES***

Rule Title: Group Limited Health Benefit Plans (Title 114 - Series 79)  
 Type of Rule:  X  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 administer this new insurance program within its existing manpower and physical capabilities.

**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)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	None	None	None

Rule Title: Group Limited Health Benefit Plans (Title 114 - Series 79)

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 already approves rates and forms for insurance products and it will be able to perform a similar function with regard to this program without additional resources. The proposed plan is exempt from premium tax and so it will not generate additional revenue.

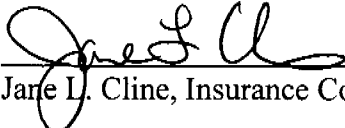
**MEMORANDUM**

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: July 27, 2006

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
Jane L. Cline, Insurance Commissioner

**114CSR79**

**LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 79  
GROUP LIMITED HEALTH BENEFITS PLANS**

Section

- 114-79-1. General.
- 114-79-2. Applicability.
- 114-79-3. Definitions.
- 114-79-4. Rate Filing.
- 114-79-5. Form Filing.
- 114-79-6. Eligibility.
- 114-79-7. Benefits.
- 114-79-7. Severability.

114CSR79

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 79

GROUP LIMITED HEALTH BENEFITS PLANS

**§114-79-1. General.**

1.1. Scope -- This rule establishes guidelines and procedures under which the Commissioner may approve group limited health benefit plans.

1.2. Authority -- W. Va. Code §§33-2-10, 33-16F-3 and 33-16F-5.

1.3. Filing. --

1.4. Effective Date. --

**§114-79-2. Applicability.**

2.1. This rule applies to all group limited health benefit plans issued pursuant to article sixteen-f, chapter thirty-three of the West Virginia Code and to all insurers offering such plans as of the effective date of this rule. This rule does not apply to policies defined as an "excepted benefit" in W. Va. Code § 33-16-1a(2).

**§114-79-3. Definitions.**

3.1. "Commissioner" means the West Virginia Insurance Commissioner.

3.2. "Group limited health benefits plan" means a plan as defined in W. Va. Code §33-16F-2.

3.3. "Part-time employee" is an employee who is employed to work less than the number of hours each week that is worked by a full time employee at the employer's business. An insurer may set limits for hours a part time employee may work and be eligible for its group limited health benefits plan.

3.4. "Seasonal employee" is an employee who is employed to work less than the full calendar year at an employment activity that is determined by seasonal or calendar changes.

3.5. "Temporary employee" is an employee whose term of employment has a defined time of termination that is less than permanent.

**§114-79-4. Rate Filing.**

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4.1. All of the provisions of 114CSR26 apply to group limited health benefits plans except 114CSR26-1.

**§114-79-5. Form Filing.**

5.1. All of the provisions of 114CSR67 apply to group limited health benefit plans.

**§114-79-6. Eligibility.**

6.1. A group limited health benefits plan may only cover employees in a class of employees that comprises part-time, temporary or seasonal employees that (i) are ineligible for coverage under any of the employer's group health benefits plans, or (ii) are employed by an employer that does not offer a group health benefits plan to any of its employees.

**§114-79-7. Benefits.**

7.1. 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 Commissioner.

7.2. 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.

7.3. Every policy that does not cover prescription benefits as part of its basic coverage shall offer prescription benefits coverage as an option.

**§114-79-8. Severability.**

8.1. If any provision of this rule is held invalid, the remainder of the rule shall not be

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affected thereby.