

PRESS RELEASE

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Law Guarantees Right to Individual Health Insurance Coverage

Consumers losing their group health insurance coverage may be eligible to purchase an individual health insurance plan commonly referred to as "portability" or "HIPAA" (Health Insurance Portability and Accountability Act) coverage. HIPAA is a federal law enacted in 1996.

Under HIPAA and related state law, if you meet the eligibility guidelines, you are guaranteed to be eligible, regardless of any medical conditions you may have, to purchase some type of individual health insurance coverage that will not be subject to any pre-existing condition exclusions or limitations. The right to purchase HIPAA coverage must be exercised within 63 days after the group coverage ends.

Arizona Insurance Director Charles R. Cohen expressed concern that some health insurers may not be proactive enough about making sure consumers are aware of these legally required insurance products, and providing consumers with a meaningful opportunity to purchase them. As a result, consumers sometimes do not become aware of the right to purchase this coverage until after their window of opportunity has passed.

"HIPAA is a critical component of our nation's health insurance system," Cohen said. "Compliance with the letter and spirit of the law is not optional for health insurers."

Cohen has issued at least three regulatory bulletins relating to HIPAA enforcement since 1998. Circular Letter 98-10 states that it is a violation of HIPAA for health insurers to reduce or eliminate commissions to agents for sale of HIPAA-related products because it discourages agents from offering such products to HIPAA-eligible individuals. Circular Letter 2000-1 explains that health insurers have an "affirmative obligation to advise the customer of HIPAA and the right to guaranteed issuance of a policy." It expresses the concern that some health insurers may be avoiding this affirmative obligation through various techniques, including refusal to quote rates over the phone, emphasizing the high cost of HIPAA policies, and delaying the transmission of requested information.

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Circular Letter 2000-7 clarifies that there is no minimum age requirement for HIPAA coverage, and that HIPAA coverage cannot be delayed due to an eligible individual's in-patient status.

During the past year, the Department of Insurance has issued disciplinary orders to at least 11 health insurers that cite violations arising out of failure to comply with HIPAA requirements, among other violations.

Consumers generally are eligible for this coverage if ALL of the following apply:

- Their most recent coverage was from a group plan and they accepted and exhausted their group continuation coverage under COBRA (Consolidated Omnibus Budget Reconciliation Act of 1986);
- They have been insured under certain kinds of health insurance plans for at least the past 18 months without more than a 63-day break in coverage between health plans;
- They are not eligible for other group coverage or for Medicare; and
- Their previous coverage was not cancelled because of fraud or nonpayment.

Health insurers selling individual health insurance policies in Arizona are legally required to offer HIPAA-eligible individuals a policy. However, HIPAA does not limit the amount an insurer may charge for this coverage. Because individuals in need of guaranteed issue coverage are generally at higher risk of needing medical services, rates for HIPAA coverage generally are substantially higher than for ordinary commercial health insurance coverage.

The Arizona Department of Insurance offers two free brochures that explain in greater detail a consumer's right to purchase portability coverage. The brochures are called "Protect Your Health Insurance Benefits with HIPAA" and "Protecting Your Health Insurance Coverage."

Cohen encouraged consumers who are about to lose their group health coverage to obtain copies of these publications by calling or writing to: Arizona Department of Insurance, Consumer Assistance, 2910 N. 44th Street, Suite 210, Phoenix, AZ 85018; (602) 912-8444 (Phoenix); (1-800) 325-2548 (Statewide), (520) 628-6370 (Tucson). Or, consumers can log onto the Insurance Department web site at www.state.az.us/id and link to HIPAA for additional information.

"The brochures provide useful information when shopping for portability health insurance coverage," Cohen said.

Other free publications that are available include consumer guides to group and individual health insurance. The Insurance Department recommends that consumers consult an insurance professional before purchasing coverage. Although price is always a factor, consumers should consider the company's service to its policyholders, its overall reputation, and the type of coverage offered.