



Administrative Bulletin #2013-3

To: All Insurers Authorized to Write Policies in Minnesota
From: Minnesota Departments of Commerce and Health
Subject: Coverage of Dependent Spouses
Date: July 31, 2013

The Minnesota Departments of Commerce and Health (“the Departments”) are issuing this bulletin to apply to all insurers authorized to write business in the State of Minnesota (the “State”) that may offer dependent coverage. The purpose of this bulletin is to provide guidance related to the State’s enactment of Chapter 74 (House File 1054), which was passed by the Minnesota Legislature on May 13, 2013, signed by Governor Mark Dayton on May 14, 2013, and will become effective on August 1, 2013.

Chapter 74 authorizes lawful civil marriage between two persons, including between persons of the same sex. As a result, beginning August 1, 2013, any policy issued in Minnesota that provides dependent coverage for spouses must make that coverage available on the same terms and conditions regardless of the sex of the spouse.

Similarly, to the extent that a property and casualty policy provides a rating or liability benefit because two residents in the same household are married, that benefit must be afforded regardless of the sex of the spouse.

Minnesota Statute 72A.20 outlines specific practices that are considered unfair or deceptive, including:

Subd. 16. Discrimination based on sex or marital status.

Refusing to insure, refusing to continue to insure, refusing to offer or submit an application for coverage, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subsection prohibits an insurer from taking marital status into account for the purpose of defining persons eligible for dependents' benefits.

While insurers may continue to choose whether to provide dependent benefits to a spouse, the Departments believe that defining a spouse in a way that limits coverage to an opposite-sex spouse would be discriminatory and unfair, and a violation of Minnesota Statutes section 72A.20, subdivision 16.

In addition, since civil marriages will be recognized in Minnesota as of August 1, 2013, insurers must consider persons previously legally married in other states to be legally married for insurance purposes in Minnesota effective August 1, 2013. To ensure that these couples are not subject to discriminatory practices, effective August 1, 2013, insurers should apply the procedures they currently use to enroll newly married spouses for dependent coverage to same sex spouses who are recognized as legally married on August 1, 2013.

For purposes of dependent coverage defined in forms that have already been filed with the Departments, “spouse” shall refer to any opposite-sex or same-sex spouse. Insurers filing new forms in Minnesota may not limit policy coverage to opposite-sex spouses. In addition, continuation coverage for current and former spouses under Minnesota Statutes sections 62A.20, 62A.21, 62D.101, and 62D.105 must be equally available to spouses of the same or opposite sex.

The Departments will not approve any forms that exclude same-sex spouses from the definition of “spouse” or otherwise do not provide identical coverage or treatment for a same-sex spouse as for an opposite-sex spouse.

Please note that this bulletin does not apply to plans or policies that are regulated under ERISA or that are otherwise outside of the State’s regulatory jurisdiction.

This bulletin shall be effective for any new and renewing policies beginning August 1, 2013.

Questions

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