

November 28, 1975

SUBJECT: INSURANCE

Circular Letter No. 18 (1975)  
November 28, 1975

TO: ALL INSURERS, OTHER THAN ARTICLE IX-C CORPORATIONS, LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE

SUBJECT: ACCIDENT AND HEALTH INSURANCE CONVERSION POLICIES

Chapter 49, Laws of 1975, which amended Section 162, New York Insurance Law, takes effect January 1, 1976 and requires insurers where applicable to offer conversion to individual or family major medical policies and, in addition, mandates higher hospital and surgical benefit levels than is now required by law for the three statutory plans set forth in Section 162.

To assure timely compliance with the amended law by all insurers, this Circular Letter sets forth Insurance Department guidelines for conversion policies relating to (1) policy form approval, (2) over-insurance standards, and (3) premium rates.

#### 1. Policy Form Approval

Attached as Appendices A and B to this Circular Letter are sample benefit provisions which can be used as a guide in the drafting of conversion policies designed to include the benefits required by subsection 8 of Section 162, New York Insurance Law. Appendix A sets forth the sample provisions for a major medical policy providing benefits on an "all cause plan" and Appendix B sets forth such provisions for an "each cause plan".

In anticipation of questions by insurers that may arise in the implementation of Chapter 49, Laws of 1975, the following guidelines for approval of policy forms apply:

a) The minimum standards for a major medical conversion policy are set forth in subsections 5 and 8 of Section 162, New York Insurance Law, and Sections 52.20, 52.54(a) and all other applicable requirements of Department Regulation 62. It should be noted that sub-section 5(c) of Section 162 states that the converted policy need not provide maternity benefits, however, the Department does not consider coverage of "complications of pregnancy" as a maternity benefit and unless previously excluded under the group contract should be covered in the conversion policy.

Major medical expense benefit, exclusion, restriction and limitation provisions which are no less favorable to the insured than the provisions set forth in Appendices A and B are approvable when supplemented by definitions, general and other provisions which are consistent with the Insurance Law, Regulation 62, and other Department requirements. If an insurer elects to use the provisions set forth in Appendices A and B, policy forms approval can be expedited by a specific reference in the insurer's letter of submission that it has so elected. If the insurer deviates from the provisions set forth in the Appendices A and B, only to the extent of providing additional benefits for out of hospital drugs, private duty nursing, and in-hospital psychiatric care and removal of inside limits for in-hospital physician visits, these deviations and the appropriate rate adjustment should be noted in the submission letter. A policy including only the above-mentioned deviations will be considered by the Department as a complying statutory major medical policy.

c) At the insurer's option, it may elect to offer either or both of the major medical plans described in Section 162.8, the "all cause plan" or the "each cause plan".

d) Previously-approved hospital and surgical conversion policies can continue to be used on or after January 1, 1976, if they comply with subsections 5 and 7 of Section 162, New York Insurance Law, and Sections 52.20 and 52.54(a) of Regulation No. 62 and all other applicable requirements of Department Regulation No. 62. It should be noted again that subsection 5(c) of Section 162 states that the converted policy need not provide maternity, however, the Department does not consider "complications of pregnancy" as a maternity benefit and unless previously excluded under the group contract should be covered in the conversion policy.

e) Where an applicant for a conversion policy is entitled to basic coverage and major medical coverage, the insurer may elect to issue separate policies or a single policy, at its option. If, however, the insurer elects to issue separate conversion policies, and if its major medical policy contains a surgical schedule, the surgical schedules of the two policies must be compatible. Preferably, the same schedule should be used for surgical benefits and major medical benefits, whether provided in separate policies or a single policy, and it should vary only as to the applicable statutory maximums.

f) Attention is called to the new restrictions set forth in Section 162.5(e), which limits the insurer's right to request information concerning other insurance coverage to the period of the first two years of the policy. An insurer may non-renew the conversion policy for overinsurance only during this two year period and can do so only on the basis of standards of overinsurance on file with the Superintendent. After two years an insurer is permitted to refuse renewal on a class basis only if the Superintendent finds, as in the event of enactment of a federal or state health care program, that non-renewal is in the public interest. To the extent that any group accident and health insurance policy's conversion provisions refer to the insurer's right to refuse renewal, those provisions should be amended on or before January 1, 1976, to reflect the foregoing.

If a person insured under a New York group major medical policy applies for conversion when a resident of another state, the insurer must offer conversion to major medical coverage if the applicant's state of residence has a major medical conversion law. Otherwise, the insurer must offer conversion to its most liberal hospital and surgical plan then being offered for conversions in that state.

h) The conversion privilege required by Chapter 49, Laws of 1975, should be made available under group policies issued to policyholders recognized under Section 221.2(h).

i) Insurers must offer to group major medical converttees one of the statutory major medical plans and, in addition, may voluntarily offer other conversion plans approved by the Superintendent.

j) Insurers should note that effective April 1, 1976, policies providing coverage for in-patient hospital care must also include coverage for home care in accordance with the requirements of Chapter 647 of the Laws of 1975. Insurers submitting conversion policies for approval may desire to include the home care coverage in the policies at this time.

## 2. Overinsurance Standards

The amended Section 162 contemplates that each insurer will file with the Superintendent its standards for determining overinsurance or duplication of benefits. Standards no less favorable to insureds than the standards in Appendix C are acceptable and any insurer electing to use them should so state in their submission letter.

## 3. Premium Rates

Pursuant to Section 162.6 of the New York Insurance Law, the Department hereby gives notice of its intent to amend Regulation 62, Section 52.40(i) to substitute Appendix D Schedule of Maximum Group Conversion Rates for persons converting from group coverage at age 60 and over. Rates to be used with conversion policies which do not exceed the rates set forth in Appendix D will be approved by the Department as reasonable in relation to the benefits provided.

In addition to the rates established by the previous paragraph, attached as Appendices E-I, E-II, E-III and E-MM are schedules of acceptable annual group conversion rates for persons converting from group coverage at ages under 60. Appendices E-I, E-II and E-III set forth the above mentioned schedules for basic statutory Plans I, II and III, respectively. Appendix E-MM sets forth the schedule for the major medical statutory plans. The schedules represent one acceptable rate structure for the statutory plans. Other rate structures, such as individual attained age or grouped attained age step rates, and one year preliminary term rates based on individual ages, may be constructed on a basis consistent with the rates set forth in the Appendices.

If an insurer offers a plan with level premiums to age 65, it must also offer as an option to the insured a one year preliminary term premium rate for statutory plans in the first policy year.

The reference in the Appendices to surgical schedules is to the 1957 Relative Value Schedule developed by the Society of Actuaries and set forth in Volume X (page 489), Transactions of the Society of Actuaries.

The premium rates set forth in the Appendices for Miscellaneous Expense Benefits are calculated on the assumption that normal outpatient services are covered expenses.

Please acknowledge receipt of this Circular Letter to Mr. James W. Clyne, Chief of the Health and Life Policy Bureau, New York State Insurance Department, 324 State Street, Albany, New York 12210

[SIGNATURE]

THOMAS A HARNETT

Superintendent of Insurance