



**STATE OF NEW YORK
INSURANCE DEPARTMENT
ONE COMMERCE PLAZA
ALBANY, NEW YORK 12257**

George E. Pataki
Governor

Gregory V. Serio
Superintendent

**Circular Letter No. 1 (2004)
February 27, 2004**

TO: All carriers participating in the New York market stabilization pools for individual and small group health insurance, other than Medicare Supplement Insurance

STATUTORY REFERENCE: Insurance Law §§307(a)(1) and 3233

Section 3233 of the Insurance Law requires the Superintendent to promulgate regulations to ensure the ongoing operation of open enrollment and community rating. Pursuant to this statutory requirement, the Insurance Department promulgated Regulation 146 which established the demographic and specified medical conditions pools. The law was subsequently amended to require the phase-out of the demographic pools and the creation of a pooling process designed to share the risk of or equalize high cost claims or the claims of high cost persons. Again, as required by law, the Insurance Department promulgated the Fourth Amendment to Regulation 146, effective May, 2002, which established this revised pooling process.

Prior to the adoption of the Fourth Amendment to Regulation 146, the Insurance Department met with interested parties on numerous occasions and incorporated their suggestions into the regulation. In addition, once the regulation was finalized, the Department issued circular letters, posted questions and answers on its Web site, and held an industry-wide meeting that all carriers participating in the pools were requested to attend. This outreach was intended to ensure that carriers would be educated as to the new pooling requirements.

Despite the information provided by the Insurance Department, almost all of the 74 companies subject to the pools failed to meet the initial filing deadline of January 31, 2003 for the six submissions covering years 7/1/99 - 1/1/03. In addition, half of the companies were required to send in revised submissions due to errors found when the Pool Administrator, Alicare, reviewed their submissions. The impact of deficient submissions is that the entire pooling process is delayed because each company's data must be taken into consideration in order for Alicare to establish the regional averages. Once the averages are established, Alicare can determine whether companies should collect money from or will owe money to the pools, depending on whether they are above or below the average.

In order to move the process forward, the Department notified companies identifying the common submission errors and directing companies that corrected submissions must be submitted to and received by Alicare no later than February 27, 2004. The Department further advised companies that after February 27, no further revisions will be accepted and that disciplinary action will be pursued for a company's failure to make a good faith effort to adhere to

the requirements of the 4th Amendment to Regulation 146.

Until such time as the Insurance Department receives sufficiently accurate data, which to date it has not received, the Department cannot make a determination as to proper allocations under Regulation 146. In the event the Department is unable to complete its determination of the allocations because of the insufficiency of the data received from the carriers, the Department will provide further guidance on the operation of the regulation. Carriers filing their 2003 annual statements are expected to include estimated liabilities and receivables under the pools. Therefore, carriers are hereby granted an extension of time until April 1, 2004 to file their annual statements. Such extension of time shall not preclude any carrier from submitting its filing prior to April 1, 2004.

Very truly yours,

Thomas C. Zyra
Co-Chief - Health Bureau