

August 6, 1980

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 10 (1980)

August 6, 1980

TO: ALL AUTHORIZED ACCIDENT AND HEALTH INSURERS, INCLUDING ARTICLE IX-C
CORPORATIONS

RE: IMMEDIATE COVERAGE OF PREGNANCY EXPENSES UNDER CONVERSION POLICIES

It has come to the attention of the Insurance Department that insurers issuing conversion policies from group accident and health contracts are providing maternity coverage under the conversion policy subject to a ten month exclusionary period or only covering pregnancies commencing while the converted policy is in force.

It is our understanding that following enactment of Public Law 95-555 and the issuance of interpretive guidelines by the Equal Employment Opportunity Commission, many employers, in an effort to comply with the legislation and treat pregnancy in the same manner as other medical conditions, modified their group health insurance policies and provided immediate coverage for pregnancy expenses incurred while the employee or dependent was covered under the policy, but eliminated the extension of maternity benefits provision because it was applicable only to pregnancy and no other medical condition. An extension of benefits based on total disability of the terminating employee or a dependent was made applicable to all medical conditions.

The elimination of the extension of maternity benefits provision meant that no longer would there be continued coverage under the group contract for maternity expenses beyond the date of termination of coverage for a pregnancy that commenced while insured under the group contract, unless the pregnant employee or dependent was totally disabled on the termination date.

Section 164-a, New York Insurance Law, provides that "every policy subject to the provisions of section one hundred sixty-four which provides hospital, surgical or medical coverage shall provide coverage for maternity care. . .". Insurance Department Circular Letter 23 (1976), which set forth Department interpretations concerning the maternity legislation, specifically stated that conversion policies must include maternity coverage notwithstanding then existing maternity exclusions in Sections 162 and 164 of the Insurance Law. This conclusion was reached on the basis that the maternity law was enacted subsequent to the conversion law and its provisions would supersede any inconsistent provisions in the conversion law. Chapter 246 of the Laws of 1980 eliminated the reference in the conversion law to the exclusion of maternity benefits.

Section 52.20(a)(2) of Insurance Department Regulation 62 provides the following rule with respect to conversion policies:

"Policies shall not contain exclusions for pre-existing conditions, except to the extent that any condition was excluded from the policy from which conversion is made."

Thus, an exclusion for the pre-existing condition of pregnancy is prohibited, except to the extent that pregnancy was excluded in the policy from which conversion was made.

Accordingly, it is the opinion of the Insurance Department that when extension of maternity benefits is not provided by the group accident and health contract, the conversion policy must provide immediate coverage for pregnancy expenses incurred while insured under the conversion policy.

[SIGNATURE]

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