



**STATE OF NEW YORK  
INSURANCE DEPARTMENT  
AGENCY BUILDING ONE  
EMPIRE STATE PLAZA  
ALBANY, NEW YORK 12257**

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**Circular Letter No. 9 (1997)  
April 4, 1997**

**TO: All Insurers Licensed to Write Accident and Health Insurance in New York State (Insurance Law Section 1113(a)(3) )**

**RE: Provider Excess Insurance**

In response to inquiries regarding the availability of provider excess insurance in New York State, this Department wishes to advise the captioned entities that provider excess insurance will be deemed to be "substantially similar" to accident and health insurance as defined in Insurance Law Section 1113(a)(3).

"Provider excess insurance" is a term usually applied to coverage issued to protect health providers from a portion of the financial risk they assume in managed care contracts with insurers and health maintenance organizations. The term "provider stop-loss" or terms of similar import are also sometimes used to describe such coverage.

- Insurance Law Section 1113(a)(3) defines accident and health insurance as:

(i) insurance against death or personal injury by accident or by any specified kind or kinds of accident and insurance against sickness, ailment or bodily injury, including insurance providing disability benefits pursuant to article nine of the workers' compensation law, except as specified in item (ii) hereof; and (ii) non-cancellable disability insurance, meaning insurance against disability resulting from sickness, ailment or bodily injury (but excluding insurance solely against accidental injury) under any contract which does not give the insurer the option to cancel or otherwise terminate the contract at or after one year from its effective date or renewal date.

Where a particular type of insurance does not fit within any of the specific kinds of insurance set forth in Section 1113(a), the Superintendent has the discretion to allow it as a "substantially similar kind of insurance" pursuant to Insurance Law Section 1113 (a)(30), which provides as follows:

- "Substantially similar kind of insurance," means such insurance which in the opinion of the superintendent is determined to be substantially similar to one of the foregoing kinds of insurance and thereupon for the purposes of this chapter shall be deemed to be included in that kind of insurance.

Pursuant to Section 1113 (a)(30), in the opinion of the Superintendent, "provider excess insurance" is determined to be

substantially similar to accident and health insurance as defined in Section 1113(a)(3), is deemed to be included in that kind of insurance, and may be written in this State by insurers so licensed.

Please direct any questions concerning this Circular Letter to Mr. Austin J. Rinella, Supervising Insurance Attorney, Life and Health Bureau, at (518) 473-7470.