DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

Jim Poolman
Commissioner of Insurance

Bulletin 2001-3

To: All carriers writing individual major medical, medical expense and hospital expense business in North Dakota

From: Jim Poolman, Insurance Commissioner

Date: June 1, 2001

Subject: Bulletin 2003-3 —CHAND notification of HIPAA-eligible applicants

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SCOPE AND APPLICABILITY

This bulletin applies to all carriers writing individual major medical, medical expense and hospital expense business in North Dakota.

It has come to our attention that individual carriers have not updated their Comprehensive Health Association of North Dakota (CHAND) notices to include individuals eligible for the issuance of a guaranteed policy under the federal Health Insurance Portability and Accountability Act (HIPAA).

The Department has found that some companies are rating up individuals who may qualify for better rates and benefits under CHAND as HIPAA eligibles.

Further, the Department has found that applicants are not made uniformly aware that the requirements for applicants who enter CHAND through the traditional pathway are different from those who enter as HIPAA eligibles. HIPAA-eligibles, for example, have less restrictive residency requirements than those who enter CHAND through the conventional route.

NOTIFICATION OF TRADITIONAL CHAND ELIGIBILITY

N.D. Cent. Code § 26.1-08-11(4) imposes three requirements on carriers with reference to the traditional CHAND plan, the state's comprehensive health insurance program. Traditional CHAND applicants are those who have been denied health insurance, have been given restricted coverage because of health problems, or who are in a high-risk health category. The statute requires that:

- a carrier must notify any applicant who is denied coverage or has who an exclusionary rider placed on the applicant's policy of the existence of the CHAND program
- a carrier must notify the applicant of the requirements for being accepted in the plan
- a carrier must notify the applicant of the procedure for applying to the plan

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NOTIFICATION OF CHAND ELIGIBILITY UNDER HIPAA

In 1997 North Dakota expanded CHAND's traditional role to comply with the federal Health Insurance Portability and Accountability Act. HIPAA-eligible individuals are now guaranteed

coverage in the individual market through the CHAND program, creating a second pathway into the plan. To qualify as a HIPAA eligible, an individual must have accumulated 18 months of creditable coverage; must be covered by a group policy on the last day of the 18-month period; and must apply to CHAND within 63 days of termination from group coverage.

COMPLIANCE

It is the Insurance Department's position that notice of the CHAND program must be given to any HIPAA-eligible applicant so that the applicant can compare the CHAND coverage with that offered by the company.

Further, a carrier that has not updated its CHAND notices accordingly must do so forthwith pursuant to N.D. Cent. Code § 26.1-08-11(4). A carrier may develop two separate notices: one for traditional CHAND applicants and one for applicants eligible under HIPAA. Alternatively, a carrier may update its current notice to clarify the difference between traditional entry into CHAND and entry under HIPAA.

If you have any questions or require clarification of any part of this bulletin, please feel free to contact Beth Allen, Life and Health Analyst, at 701.328.2440 or ballen@state.nd.us.