



# Department of Commerce

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## ADMINISTRATIVE NOTICE: 2013-05

**Date:** November 27, 2013

**To:** Health Insurance Providers / Issuers

**From:** Insurance Commissioner

**Subject:** CMS Transitional Policy for Individual and Small-group Health Plans

On November 14th, the Center for Consumer Information and Insurance Oversight (CCIIO) sent a letter to insurance commissioners informing them of the decision to allow health plans in the individual and small group market to be renewed up to October 1<sup>st</sup>, 2014, even if they are not compliant with the Affordable Care Act. This new policy extends the option for consumers to renew plans that are not compliant with the market reforms that become effective on January 1<sup>st</sup>, 2014. This decision was made to help smooth out the transition into ACA compliance and to ensure consumers are not cancelled from their plan or policy with no other affordable options to choose from.

Insurance companies may only offer a renewal option<sup>1</sup> on these non-compliant plans/policies and must fully inform the consumer of the coverage differences between a compliant and non-compliant policy. Insurance companies are prohibited from offering these older, non-compliant plans to new customers in 2014. According to this new policy, these renewed health plans must be compliant with all PHSA market reforms currently in effect for 2013 plans and policies and must comply with applicable 2014 market reforms for all plans beginning after October 1<sup>st</sup>, 2014.

This transitional policy provides leniency only for eligible<sup>2</sup> health plans. These eligible health plans may renew existing coverage in up to October 1<sup>st</sup>, 2014 which does not comply with the following provisions of the Public Health Service Act (PHSA) as amended in the ACA and any corresponding portions of the Employee Retirement Income Security Act (ERISA) and Internal Revenue Code<sup>3</sup>:

- Section 2701 (relating to fair health insurance premiums);
- Section 2702 (relating to guaranteed availability of coverage);
- Section 2703 (relating to guaranteed renewability of coverage);
- Section 2704 (relating to the prohibition of pre-existing condition exclusions or other discrimination based on health status), with respect to adults, except with respect to group coverage;
- Section 2705 (relating to the prohibition of discrimination against individual participants and beneficiaries based on health status), except with respect to group coverage;<sup>3</sup>

<sup>1</sup> Insurance companies are prohibited from offering this coverage to new enrollees.

<sup>2</sup> See following paragraph for a description of which health plans are eligible for this transitional policy.

<sup>3</sup> <http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.PDF>