



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

Bulletin HC-57  
October 11, 2001

**TO: ALL HEALTH CARE CENTERS AND INSURERS LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE**

**RE: THE PROVISIONS OF CONNECTICUT'S GROUP EXTENSION OF BENEFITS LAW AND THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996**

The Connecticut Insurance Department has received questions concerning the relative obligations of prior carriers and succeeding carriers for claims of disabled individuals when an employer changes health carriers for its employee benefit plan. In 1985, the Insurance Department adopted the NAIC "Group Coverage Discontinuance and Replacement Model" as Section 38a-546-1 *et seq.* of the Regulations of Connecticut State Agencies. These sections have governed the relative obligations of the prior carrier and the succeeding carrier in a discontinuance and replacement situation since that time. With the passage of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and Connecticut's adoption of CGS §38a-476a in 1997, however, these relative obligations have been modified.

In accordance with §§38a-546-5 and 38a-546-6 of the Regulations of Connecticut State Agencies, when an employer's group health policy is discontinued, any covered individual who is disabled at the time of discontinuance is entitled to an extension of benefits for that disabling condition from the terminating carrier (the "prior carrier") (§38a-546-5(d)).

Prior to HIPAA, if the group health policy was replaced by another carrier (the "succeeding carrier"), typically the succeeding carrier would impose eligibility requirements that prohibited a disabled individual from fully enrolling in the succeeding carrier's plan for up to 12 months. HIPAA, however, prohibits eligibility rules that exclude individuals from enrolling in the succeeding carrier's plan because of a disability. Therefore, succeeding carriers must allow these disabled individuals to enroll in accordance with their plan.

In its Program Memorandum No. 00-04, the Health Care Financing Administration (now "CMS") made it clear that HIPAA does not preempt state extension of benefit requirements. Therefore, in Connecticut, a disabled individual in an employee benefit plan discontinuance and replacement situation continues to be entitled to an extension of benefits under the prior carrier's plan while enrolled in the succeeding carrier's plan.

The Insurance Department recognizes that most disabled persons will choose to rely on their prior carrier for coverage of their disabling condition during the extension of benefit period. Because of this, the Insurance Department requires prior carriers to comply with §38a-546-5 and keep these individuals on their roster for 12 months or until the earlier exhaustion of the extended benefit. The twelve month extension of coverage is an obligation of the prior carrier that is not extinguished by state or federal law. The succeeding carrier must also provide coverage for all benefits, including coverage for the disability subject to payment by the prior carrier.

Carriers are advised to review their policy forms to ensure that they have policy language for use in Connecticut that accurately reflects the obligations of prior and succeeding carriers discussed above. In particular, the extension of benefits must be available on policy termination without regard to the insured's eligibility for other coverage. In the case of a replacement policy, there shall be no benefit exclusion based on an insured's entitlement to a benefit extension from a prior carrier. In the event policy provisions do not comply with these requirements, revised language must be filed and approved.

  
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Insurance Commissioner

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