

TEXT OF PROPOSED REGULATION

Title 10. Investment Chapter 5. Insurance Commissioner Subchapter 2. Policy Forms and Other Documents Article 3. Small Employer Health Insurance

Adopt Title 10, Article 3 and Sections 2233.1 to 2233.5 to read:

Article 3. Small Employer Health Insurance

Section 2233.1. Definitions.

As used in this article:

- (a) “BPD” means “Benefit Plan Design,” as defined in Insurance Code Section 10700(b).
- (b) “HRA” means Health Reimbursement Arrangement, as defined by Internal Revenue Notice 2002-45 and Revenue Ruling 2002-41.
- (c) “Restrict wrapping” means to prohibit or otherwise limit wrapping of a small employer health insurance policy.
- (d) “Wrapping” means to combine a health insurance policy with (1) an HRA or other employer-sponsored method for reimbursing employees for all or part of their deductibles, co-payments or other out-of-pocket medical expenses under the policy or (2) a policy defined under Insurance Code Section 106(b)(2).

NOTE:

Authority cited: Insurance Code Section 10704.

Reference: Insurance Code Sections, 10700(b), 10705, 10705.1, 10706.5, 10713, 10714, 10715, 10716, 10717, and 106.

Section 2233.2. Restrictions on Wrapping.

- (a) An insurer may restrict wrapping, subject to subsection (b) and sections 2233.3 through 2233.5.
- (b) An insurer that restricts wrapping must set forth the wrapping restrictions in the BPD. An insurer may not restrict wrapping unless it sets forth the restrictions in the BPD.

NOTE:

Authority cited: Insurance Code Section 10704.

Reference: Insurance Code Sections, 10705, 10705.1, 10706.5, 10713, 10714, 10715, 10716, and 10717.

Section 2233.3. Supporting Data.

(a) If an insurer proposes to charge higher premium rates for a policy that does not restrict wrapping than for a policy that restricts wrapping, the insurer must provide data to the Department establishing (1) the extent of expected increased claims payments resulting from wrapping and (2) that the higher premium rate accurately reflects the extent of these expected increased claims payments.

(b) If an insurer restricts wrapping, the insurer must provide actuarial data to the Department establishing (1) that wrapping increases claims payments and (2) the extent of the increase in claims payments.

NOTE:

Authority cited: Insurance Code Section 10704.

Reference: Insurance Code Sections 10714, 10715, and 10717.

Section 2233.4. Information to Be Made Public.

All information submitted to the Department pursuant to this Article, including information supporting restrictions on wrapping and premium differentials due to expected increased claims payments resulting from wrapping, as well as all portions of BPDs addressing wrapping, shall be available to the public. The Department will rely only on public information in considering a submission made pursuant to this Article.

NOTE:

Authority cited: Insurance Code Section 10704.

Reference: Insurance Code Sections 10717.

Section 2233.5. Discrimination in Issuance of Small Employer Health Insurance Policies Prohibited.

(a) Every benefit plan design that places restrictions on wrapping must also provide an option that allows for wrapping, but which does not alter other terms of the policy. Any differential in premium rates between the options that restrict or do not restrict wrapping must be supported as provided in subsection 2233.3.

(b) This section shall become operational 90 days after the effective date of these regulations.

NOTE:

Authority cited: Insurance Code Section 10704.

Reference: Insurance Code Sections, 10705, 10714, and 10715.