



BUREAU OF INSURANCE

June 21, 1999

ADMINISTRATIVE LETTER 1999 - 7

TO: ALL INSURERS LICENSED TO WRITE ACCIDENT AND SICKNESS INSURANCE IN VIRGINIA, ALL HEALTH SERVICES PLANS, AND ALL HEALTH MAINTENANCE ORGANIZATIONS AUTHORIZED TO DO BUSINESS IN VIRGINIA

**RE: Applications for Individual Health Insurance Coverage
§ 38.2-3430.3 C of the Code of Virginia**

The Bureau of Insurance recently issued Administrative Letter 1999-3, dated May 12, 1999, in which descriptions of various bills enacted by the 1999 Virginia General Assembly were provided. One of the bills described in the earlier Administrative Letter was 1999 House Bill 2283. As described in Administrative Letter 1999-3, much of 1999 House Bill 2283 deals with changes in definitions of "creditable coverage" under HIPAA and in applicability of preexisting conditions in group and individual contracts.

However, the purpose of this letter is to make certain that all affected carriers are aware that 1999 House Bill 2283 also added § 38.2-3430.3 C to the Code of Virginia, **requiring the inclusion of a specific question concerning an applicant's possible status as an *eligible individual* in all applications for individual health insurance coverage.** It is the Bureau's position that the specific question must be included in the application itself; inclusion of the question on a supplement or endorsement to the application will not be considered sufficient to comply with this requirement.

There are a great many health insurance application forms on file with the Forms & Rates Section of the Bureau's Life and Health Division, and it appears that most of them will need to be amended and re-filed. There is no practicable means either for the industry or the Bureau to accomplish this by July 1, 1999, the effective date of the statutory requirement. As a result, the following summarizes the action that the Bureau of Insurance intends to take with respect to individual health insurance applications that were approved at any time prior to July 1, 1999:

- In consideration of both the potentially large volume of affected forms as well as the time constraints under which approval of revised forms must be obtained, the

Bureau will grant carriers until August 30, 1999 to secure approval of revised application forms.

- During this extended period, the Bureau will not initiate enforcement action against carriers for non-compliance with § 38.2-3430.3 C of the Code of Virginia.
- It should be noted however, that this moratorium on enforcement is specifically limited to the omission of the question required by the aforementioned statute, and is further limited to the period ending August 30, 1999.
- Carriers using application forms for individual health insurance coverage on and after August 31, 1999 that do not include the question required by § 38.2-3430.3 C of the Code of Virginia will be subject to disciplinary action as appropriate and in accordance with § 38.2-218 of the Code of Virginia.
- Further, **this letter serves as official notification to all affected carriers that the Bureau will, pursuant to § 38.2-316 D of the Code of Virginia, withdraw approval of any non-complying application forms on August 31, 1999. No further notification of form withdrawal will be provided to carriers.**

Revised submissions, as well as any questions relating to this matter, should be referred **IN WRITING** to:

Jacqueline K. Cunningham
Supervisor
Forms and Rates Section - Life and Health Division
State Corporation Commission
Bureau of Insurance
Post Office Box 1157
Richmond, Virginia 23218

Sincerely,

Alfred W. Gross
Commissioner of Insurance