



DIVISION OF INSURANCE

Frank H. Murkowski, Governor

BULLETIN B 05-08

TO: ALL LICENSEES AND ADMITTED INSURERS IN THE STATE OF ALASKA AND OTHER INTERESTED PARTIES

RE: CHANGES TO THE ALASKA INSURANCE LAWS

New legislation under CCS HB 147 (Chapter 1, FSSLA 2005) was passed by the legislature and signed into law by the governor this year that affects persons or entities regulated by the Alaska Division of Insurance. If you have access to the Internet, this law may be found at the following address: http://www.legis.state.ak.us/basis/get_fulltext.asp?session=24&bill=HB147. If you cannot access the Internet, please contact the Alaska Legislative Information Office nearest you for a copy of this new law.

The new law, which became effective on June 24, 2005 (some sections on July 1, 2005), updates procedures to allow for more efficient licensing processes and to bring Alaska into greater conformity with other states' processes. Other sections add laws to protect consumers.

This bulletin summarizes some of the important changes that have occurred. It is for informational purposes only and is not intended to be an exhaustive or interpretive analysis of statutory changes to the insurance code. Please review Alaska's insurance laws in their entirety to assure your compliance when transacting insurance business in this state.

The changes are discussed according to category: producer licensing, third-party administrators, health discount plans, and owner controlled or contractor controlled insurance programs.

Producer Licensing

Elimination of Appointment Filing Requirements

Effective June 24, 2005, the statutory requirement for insurers or managing general agents to file company appointments with our office has been eliminated. But, insurers, managing general agents (MGAs), and producers are required to maintain a list of all of their appointments, and must be able to respond within three working days to an inquiry made by the director regarding an appointment. **AS 21.27.100 As of June 24, 2005 the division no longer maintains active records of any appointments.**

“For Cause” Terminations

Also eliminated is the requirement for an insurer, reinsurer, or authorized representative to file a termination of an appointment with the division, unless the appointment is terminated because the appointee has engaged in an activity identified in AS 21.27.410. The director must be notified promptly of such a termination. AS 21.27.110(b)

Elimination of the License Fee Requirement for Firm Branch Locations

Before June 24, 2005, under AS 21.27.330(b) a business entity that transacted Alaska insurance at more than one location under the same federal employer identification number was required to pay a license fee for each place of business. The new law repealed this requirement, so a firm licensee only needs to pay a single license fee regardless of the number of locations it maintains. The notification requirements under AS 21.27.025 have not changed so, if a licensee works at a firm branch and its location changes, the licensee **must** still notify the division of the change of the licensee’s place of business even though the firm is not required to notify the division of such a change.

Notifications

In order to implement electronic communication between the division and licensees, the requirement that the director mail license renewals has been broadened to allow the director to notify the licensee of the license renewal electronically. AS 21.27.380(a)

Third-party Administrators

- An admitted insurer in good standing is not required to be registered as a third-party administrator (TPA). AS 21.27.630(k)
- A person that meets the definition of the TPA but is not required to be registered as a TPA under AS 21.27.630(e) - (k) must now file a certification with the director that the person meets the requirements for exemption. AS 21.27.630(l)
- The director may now, without advance notice or hearing, immediately suspend a TPA’s registration if the director finds that the TPA is insolvent or impaired; is involved in bankruptcy, receivership, conservatorship, rehabilitation, or other delinquency proceeding; or is in an unsound condition or is in a condition or using methods or practices that would render further transaction of insurance injurious to policy holders or the public. AS 21.27.650(q).
- The law now requires any person that acts as a TPA on behalf of the Comprehensive Health Insurance Association or a self-funded multiple employer welfare arrangement regulated under AS 21.85 to obtain the TPA registration because the definition of “insurer” has been expanded to include these entities. AS 21.27.660

Obsolete Application Forms for Producer Licensing

We have recently revised our application forms. Effective immediately, we will only accept application forms with a revision date of 8/2005 or later. Our current forms (including the form for an exemption from TPA registration) and answers to frequently asked questions are available on our web site at <http://www.commerce.state.ak.us/insurance>. Please discard old application forms in order to avoid delays in the processing of your applications.

Health Discount Plans

Effective July 1, 2005, AS 21.36 was amended and a new section was added to include provisions governing health discount plans (HDP) that are offered for sale in Alaska. A definition of health discount plans was added to AS 21.90.900. Specifically, an HDP is not insurance.

Since an HDP is not insurance, sales, promotional, and advertising information about an HDP must include a statement in **bold and prominent type** that the plan is **not insurance**.

AS 21.36.155(a)(1) Not only must such a statement be included, but under

AS 21.36.030(a)(12) – (14), the HDP may not be

- misrepresented to suggest that it is insurance;
- described by using common insurance terminology; or
- misrepresented that it is underwritten by or associated with an insurer.

The person offering an HDP may not misrepresent the benefits, advantages, conditions, sponsorship, source, or terms of the plan. AS 21.36.030(a)(1) Simply put, nothing may be stated or implied that would lead consumers to believe that they are purchasing insurance, instead of a plan that is simply intended to provide a discounted fee for medical or health-related services.

Other provisions of AS 21.36.030(a) require that

- the discounts offered under an HDP are specifically authorized by a contract with each provider of services or supplies listed in conjunction with the plan;
- the HDP must state the name, address, and telephone number of the administrator of the plan;
- the person offering the plan make readily available to the consumer a complete, accurate, and **up-to-date** list of participating providers in the consumer's local area and the discounts that are actually offered;
- the person offering the plan provide the consumer the right to cancel the HDP within 30 days after purchase and, within 30 days of a cancellation, the provider must give the consumer a **full refund** of all payments, except for a **nominal** processing fee.

If the HDP offers additional benefits incidental to membership in the plan that are actually insurance, the insurance benefits must be clearly identified as insurance and the insurance company provider and the person offering the plan **must be properly licensed** in Alaska. The true nature of the insurance benefits offered must be described, including the name and contact information for the underwriter and plan administrator, and the benefits must not be listed in a manner that would suggest to a consumer that the other benefits the HDP offers are also insurance when, in fact, they are not. If the HDP offers a blanket group insurance benefit, the plan must provide suitable policy information, including a certificate of insurance that has been provided by the insurer upon the consumer's request or at the time of enrollment.

Examples of misrepresentation in the marketing of an HDP include:

- promoting an HDP in an area that has no providers that offer discounts under the plan;
- words or phrases that describe limitations, exceptions, or reductions in a manner that suggests they are benefits of the HDP;

- deceptive words, phrases, or illustrations that disguise the true nature and operation of the HDP;
- failure to disclose the name and contact information of the actual entity with whom the HPD member will be enrolled.

Owner Controlled or Contractor Controlled Insurance Programs

AS 21.36 was amended to include guidelines on the use of owner controlled or contractor controlled insurance programs (OCIP). An OCIP is required to be approved by the director and is allowed **only** for a major construction project, as defined in AS 21.36.065(c)(3). See AS 21.36.065 and 21.36.190(f) for the specific provisions regarding an OCIP.

Submission of Information Regarding an OCIP

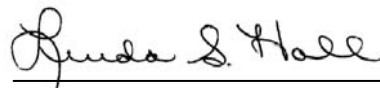
An insurer that currently writes an owner controlled or contractor controlled insurance program and has not already contacted the director about this program should provide the details of the program to the director no later than November 4, 2005. The information submitted to the director about the OCIP should include:

- copies of policies that were written as part of the OCIP;
- copies of marketing material;
- documentation showing how the policies were rated;
- documentation of discussions or correspondence between any producer involved in establishment of the OCIP and the insureds covered by the OCIP;
- documentation of discussions or correspondence between or among the insurer, its agents or representatives, and the insureds related to the establishment of the OCIP;
- documentation showing that the OCIP does not violate the provisions of AS 21.36.190 regarding fictitious groups;
- any other information the insurer has related to the establishment and operation of the OCIP.

This information should be sent to the attention of Sarah McNair-Grove; Actuary; Department of Commerce, Community, and Economic Development; Division of Insurance; P.O. Box 110805; Juneau, AK 99811. The director may require changes to an existing program to bring it into compliance with the new standards.

If you have questions regarding the information in this bulletin, please contact the division at (907) 465-2515 (Juneau) or (907) 269-7900 (Anchorage). For questions regarding the health discount plan portion of this bulletin, please contact Donald E. Hale at (907) 465-4618 or at donald_hale@commerce.state.ak.us.

Date this 28th day of September, 2005.



Linda S. Hall
Director