

Chapter 689A of NAC

ADOPTED TEMPORARY REGULATION OF
THE COMMISSIONER OF INSURANCE

LCB File No. T007-10

Filed with the Secretary of State on January 11, 2011

EXPLANATION – Matter in *italics* is new.

AUTHORITY: NRS 679B.130 and NRS 689A.740.

A REGULATION relating to the issuance of health benefit plan policies for children under the age of 19.

Section 1. Chapter 689A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this temporary regulation.

Sec. 2. *Definitions:*

1. *“Basic health benefit plan” shall have the same meaning as defined in NRS 689A.480.*
2. *“Individual carrier” shall have the same meaning as defined in NRS 689A.550.*
3. *“Child only policy” shall mean an individual health benefit plan which provides coverage to an individual under the age of 19. This shall not include health benefit plans that cover children under age 19 as a dependent.*
4. *“Open enrollment” shall mean a period of time during which an individual may enroll in a health benefit plan without providing evidence of insurability as a condition of enrollment.*
5. *“Qualifying event” shall include birth and adoption pursuant to NRS 689A.043 or court-ordered coverage as defined in NRS 689A.420(2) pursuant to NRS 689A.460.*

6. *“Standard health benefit plan” shall have the same meaning as defined in NRS 689A.605.*

Sec. 3. *1. Individual carriers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment period outlined in this regulation.*

2. Enrollment outside the open enrollment period shall be prohibited, except upon the occurrence of a qualifying event.

3. Beginning February 1, 2011, individual carriers offering child only policies shall hold an open enrollment period each February for the duration of the entire month. During this open enrollment period, all applicants under the age of 19, that are not otherwise eligible for coverage as a dependent under a group health plan providing coverage for the child’s parent(s) or guardian(s), shall be offered coverage under a Basic or Standard health benefit plan without the imposition of limitations or exclusions for preexisting health conditions. A carrier may implement eligibility criteria to ensure that other coverage is not available to the child.

4. A carrier is not required to issue a child only policy to an individual who has previously been issued a child only Basic or Standard health benefit plan, except upon the occurrence of a qualifying event.

5. Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, must be displayed prominently on the individual carrier’s web site throughout the year.

6. Applications for coverage during the open enrollment period shall become effective on April 1st of each year.

7. Nothing contained in this regulation shall alter an applicant's ability to obtain a child only policy or be added to an existing policy, outside the open enrollment period, upon the occurrence of a qualifying event.

8. In the event that an individual under the age of 19 is a dependent on a policy with a primary subscriber who is over the age of 19 and such primary subscriber terminates their coverage, the policy may be canceled pursuant to NRS 687B.320.

Sec. 4. Effective Date: Pursuant to NRS 233B.063(3), as a temporary regulation, this regulation becomes effective as of the date filed with the Secretary of State and remains in effect until November 1, 2011, unless otherwise replaced or repealed prior to that date.

INFORMATIONAL STATEMENT

A workshop was held on November 23, 2010, and a hearing was held on December 14, 2010, at the offices of the Nevada State Health Division, Hearing Room, 4150 Technology Way, Suite 303, Carson City, Nevada 89706, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada 89104, regarding the adoption of the temporary regulation concerning Child Only Policies. The proposed temporary regulation amends chapter 689A of the Nevada Administrative Code (“NAC”) to create an open enrollment period for persons desiring to purchase health benefit plan coverage for a child under the age of 19.

Public comment was solicited by posting notice of the hearing in the following public locations: the Website of the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, and Legislative Counsel Bureau; and by providing notice of the hearing to the Donald W. Reynolds Press Center, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

The Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the workshop and hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The workshop was attended by one interested party in Carson City and by seven in Las Vegas. The Division received written comments from Jack Kim, Vice President of State Government Affairs, UnitedHealth Group. Oral testimony, in the form of suggested changes to the proposed temporary regulation, was also provided by Jack Kim. Bob Bishop, KIA Insurance Agency, asked questions regarding the necessity to amend the Basic and Standard policies to comply with the Affordable Care Act (ACA). Chris Corothers, Corothers Insurance, expressed concern about the affordability of health benefit plans for children since carriers will not be able to underwrite or exclude preexisting conditions.

The hearing was attended by two interested parties in Carson City and by six in Las Vegas. During the hearing, oral testimony was provided by Glenn Shippey, Actuary I, representing the Division. Written comments, in the form of suggested changes to the proposed regulation presented at the workshop, were received from Jack Kim, UnitedHealth Group, and Kris Frank, State Government Relations, Aetna Inc. Questions were raised during the hearing by Bob Bishop, KIA Insurance, regarding the requirement by the federal Department of Health & Human Services (“HHS”) to make the Basic and Standard health benefit plans be in compliance with the Affordable Care Act (“ACA”). Cliff King, Chief Insurance Examiner of the Division’s Life and Health Section, confirmed that the Basic and Standard health benefit plans must be ACA compliant per HHS.

It was explained by the Division that the purpose of this temporary regulation is to address the situation created by the ACA such that, effective September 23, 2010, the ACA prohibits the exclusion or restriction of coverage for applicants of health benefit plans for any child under the age of 19. As a result of the mandate requiring insurers to provide coverage regardless of preexisting conditions, all carriers in Nevada ceased providing child only policies. This temporary regulation will provide an open enrollment period for one month each year when child only policies may be purchased. This open enrollment period will prevent the adverse selection that could otherwise occur if coverage could be purchased at will during the year, thus providing an incentive for carriers to once again issue coverage on child only policies.

There were several amendments recommended and made to the proposed temporary regulation, LCB File No. T007-10. The amended version of the proposed temporary regulation is attached as Exhibit "A" to the Summary of Proceedings and Order ("Order") issued December 17, 2010, attached hereto.

Based upon the testimony received at the hearing, the temporary regulation is amended as follows (underlined language is new):

1. Amend Section 3 to read as follows:

Sec. 3. 1. Individual carriers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment period outlined in this regulation.

2. Enrollment outside the open enrollment period shall be prohibited, except upon the occurrence of a qualifying event.

3. Beginning February 1, 2011, individual carriers offering child only policies shall hold an open enrollment period each February for the duration of the entire month. During this open enrollment period, all applicants under the age of 19, that are not otherwise eligible for coverage as a dependent under a group health plan providing coverage for the child's parent(s) or guardian(s), shall be offered coverage under a Basic or Standard health benefit plan without the imposition of limitations or exclusions for preexisting health conditions. A carrier may implement eligibility criteria to ensure that other coverage is not available to the child.

4. A carrier is not required to issue a child only policy to an individual who has previously been issued a child only Basic or Standard health benefit plan, except upon the occurrence of a qualifying event.

5. Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, must be displayed prominently on the individual carrier's web site throughout the year.

6. Applications for coverage during the open enrollment period shall become effective on April 1st of each year.

7. Nothing contained in this regulation shall alter an applicant's ability to obtain a child only policy or be added to an existing policy, outside the open enrollment period, upon the occurrence of a qualifying event.

8. In the event that an individual under the age of 19 is a dependent on a policy with a primary subscriber who is over the age of 19 and such primary subscriber terminates their coverage, the policy may be canceled pursuant to NRS 687B.320.

After considering the record, the Commissioner has issued an order adopting the regulation, LCB File No. T007-10, as amended, as a temporary regulation of the Division. *See* attached Order.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The industry will incur additional cost to amend their application forms and commence issuing policies for those persons under the age of 19 seeking coverage under a health benefit plan. The cost should be minimal.
- (b) On Small Business: The proposed regulation should have no economic impact on small business. The regulation amends Chapter 689A of the NAC by creating an open enrollment period to allow consumers to purchase child only policies.
- (c) On the public: The proposed regulation will have no economic impact on the public, however, the public will be able to purchase coverage for a child under the age of 19.

There should be only minimal cost to the Division to review forms and rates updated to comply with the temporary regulation. The Division is not aware of any overlap or duplication of the temporary regulation with any state, local or federal regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **10.0475**
LCB File No. **T007-10**

**TEMPORARY REGULATION
CONCERNING
CHILD ONLY POLICIES**

**SUMMARY OF PROCEEDINGS
AND ORDER**

SUMMARY OF PROCEEDINGS

A public workshop, as required by Nevada Revised Statutes (“NRS”) 233B.061, on the proposed temporary regulation concerning Child Only Policies was held before David Hall, Insurance Counsel, on November 23, 2010, at the offices of the Nevada State Health Division, Hearing Room, 4150 Technology Way, Suite 303, Carson City, Nevada, and video-conferenced to the Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada. A public hearing on the proposed temporary regulation was held before Brett J. Barratt, Commissioner of Insurance, on December 14, 2010, at the offices of the Nevada State Health Division, Hearing Room, 4150 Technology Way, Suite 303, Carson City, Nevada, and video-conferenced to the Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada. The temporary regulation is proposed under the authority of NRS 679B.130 and 689A.740.

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), received written comments from Jack Kim, Vice President of State Government Affairs, UnitedHealth Group, and Kris Frank, State Government Relations, Aetna, Inc. The hearing was attended by two interested parties in Carson City and six in Las Vegas. The following persons provided testimony before the Hearing Officer: Glenn Shippey, Actuary I, representing the Division; Jack Kim, representing UnitedHealth Group; and Bob Bishop, representing KIA Insurance.

Mr. Shippey testified that the proposed temporary regulation amends chapter 689A of the Nevada Administrative Code (“NAC”) to create an open enrollment period for health benefit plans for a child under the age of 19. The temporary regulation will apply to all insurers of health benefit plans marketing policies in this state. Questions were raised during the hearing by Mr. Bishop regarding the requirement by the federal Department of Health and Human Services (“HHS”) to make the Basic and Standard health benefit plans be in compliance with the Affordable Care Act (“ACA”). Cliff King, Chief Insurance Examiner of the Division’s Life and Health Section, confirmed that the Basic and Standard health benefit plans must be ACA compliant per HHS.

It was explained by the Division that the purpose of this temporary regulation is to address the situation created by the ACA such that, effective September 23, 2010, the ACA prohibits the exclusion or restriction of coverage for applicants of health benefit plans for any child under the age of 19. As a result of the mandate requiring insurers to provide coverage regardless of preexisting conditions, all carriers in Nevada ceased providing child only policies. This temporary regulation will provide an open enrollment period for one month each year when child only policies may be purchased. This open enrollment period will prevent the adverse selection that could otherwise occur if coverage could be purchased at will during the year, thus providing an incentive for carriers to once again issue coverage on child only policies.

Based upon the written comments and testimony received at the workshop and hearing, the amendments to the proposed temporary regulation are as follows (underlined language is new):

1. Amend Section 3 to read as follows:

Sec. 3. 1. Individual carriers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment period outlined in this regulation.

2. Enrollment outside the open enrollment period shall be prohibited, except upon the occurrence of a qualifying event.

3. Beginning February 1, 2011, individual carriers offering child only policies shall hold an open enrollment period each February for the duration of the entire month. During this open enrollment period, all applicants under the age of 19, that are not otherwise eligible for coverage as a dependent under a group health plan providing coverage for the child's parent(s) or guardian(s), shall be offered coverage under a Basic or Standard health benefit plan without the imposition of limitations or exclusions for preexisting health conditions. A carrier may implement eligibility criteria to ensure that other coverage is not available to the child.

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5. Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a qualifying event, must be displayed prominently on the individual carrier's web site throughout the year.

6. Applications for coverage during the open enrollment period shall become effective on April 1st of each year.

7. Nothing contained in this regulation shall alter an applicant's ability to obtain a child only policy or be added to an existing policy, outside the open enrollment period, upon the occurrence of a qualifying event.

8. In the event that an individual under the age of 19 is a dependent on a policy with a primary subscriber who is over the age of 19 and such primary subscriber terminates their coverage, the policy may be canceled pursuant to NRS 687B.320.

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, and based upon the testimony received at the workshop and hearing, it is hereby ordered that the proposed temporary regulation concerning Child Only Policies, LCB File No. T007-10, be adopted, as amended, as a temporary regulation of the Division. *See* Exhibit “A” attached hereto.

SO ORDERED this 17th day of December, 2010.

/S/

BRETT J. BARRATT
Commissioner of Insurance