

07-27

Notice
of Rulemaking Hearing
Department of Commerce and Insurance
Division of Insurance

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of rules pursuant to Tenn. Code Ann. § 56-7-2814. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204 and will take place in Fifth Floor, Conference Room A of the Davy Crockett Tower located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. CST on the 15th day of September, 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, Fifth Floor, Nashville, Tennessee 37243, telephone (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: John F. Morris, Staff Attorney, Department of Commerce and Insurance, Davy Crockett Tower, Fifth Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243, telephone (615) 741-2199.

Substance of Proposed Rules

Chapter 0780-1-88
Tennessee Health Insurance Portability, Availability and Renewability Regulations

New rules

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- Rule 0780-1-88-.01 Purpose and Scope
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Rule 0780-1-88-.01 Purpose and Scope.

The purpose of this Chapter is to implement regulations necessary to ensure compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) (codified as amended in scattered sections in 42 U.S.C.), and to implement the minimum standards established by such Act, as well as to implement regulations necessary to carry out the proper administration of the Tennessee Health Insurance Portability, Availability and Renewability Act, T.C.A. §§ 56-7-2801, *et seq.*

Authority: T.C.A. §§ 56-7-2801, *et seq.*, and 56-7-2814, and Pub.L. 104-191, 110 Stat. 1936 (1996).

Rule 0780-1-88-.02 Definitions

- (1) "Compensation" means any consideration given or promised by a health insurance issuer to its producers for the sale of contracts providing health insurance coverage, including but not limited to commissions, bonuses, or other such rewards;

- (2) "Group health plan" means an employee welfare benefit plan, as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise. A program under which creditable coverage is provided shall be treated as a group health plan for the purposes of applying this Chapter;
- (3) "Health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any policy, certificate, or agreement offered by a health insurance issuer;
- (4) "Health insurance issuer" means an entity subject to the insurance laws of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide health insurance coverage, including but not limited to, an insurance company, a health maintenance organization and a nonprofit hospital and medical service corporation. "Health insurance issuer" does not mean a group health plan;
- (5) "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996, Pub.L. 104-191, 110 Stat. 1936 (1996), and the Tennessee Health Insurance Portability, Availability and Renewability Act, T.C.A. §§ 56-7-2801, *et seq.*;
- (6) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan. This includes coverage offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;
- (7) "Producer" means a person required to be licensed pursuant to T.C.A. title 56, chapter 6, part 1 to sell, solicit or negotiate insurance on behalf of a health insurance issuer in this state.

Authority: T.C.A. §§ 56-7-2802 and 56-7-2814.

Rule 0780-1-88-.03 Producer Compensation.

The compensation paid by a health insurance issuer to its producers for a policy of insurance required to be offered by health insurance issuers under HIPAA shall not be less than the compensation paid to its producers for the health insurance issuer's standard health insurance products.

Authority: T.C.A. §§ 56-7-2814, 56-8-104(6) and 56-8-113, Pub.L. 104-191, 110 Stat. 1936 (1996), 45 C.F.R. §146.150(a), and 45 C.F.R. §148.120.

Rule 0780-1-88-.04 Penalties.

In addition to any other law or penalty that may apply, violations of Rule 0780-1-74-.03 shall be treated as unfair discrimination and an unfair act or practice under T.C.A. § 56-8-104(6)(B), and shall subject the health insurance issuer to the penalties set forth in T.C.A. § 56-8-109.

Authority: T.C.A. §§ 56-7-2814, 56-8-104(6) and 56-8-113.

Rule 0780-1-88-.05 Severability.

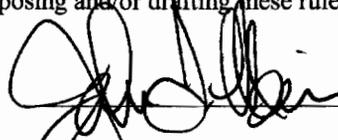
If any provision of this Chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Authority: T.C.A. §§ 56-7-2814 and 56-8-113.

Legal Contact and/ or party who will approve final copy for publication: John F. Morris
Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
500 James Robertson Parkway
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615-741-2199

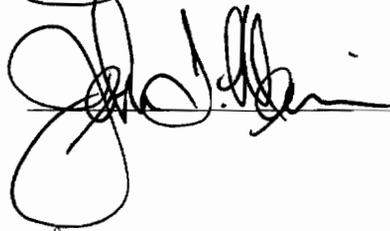
Contact for disk acquisition: John F. Morris
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500 James Robertson Parkway
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Nashville, Tennessee 37243
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Signature of the agency or officers directly responsible for proposing and/or drafting these rules:



John F. Morris
Staff Attorney

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Commissioner of Commerce and Insurance.



John F. Morris
Staff Attorney

Subscribed and sworn to before me this the 20th day of July, 2005.



Notary Public

My commission expires on the 20th day of Sept, 2005.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27 day of July, 2005.



Riley C. Darnell
Secretary of State

By: 

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