



South Carolina Department of Insurance

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TO: All Insurers Licensed to Transact Accident and Health Insurance Business within the State of South Carolina and all South Carolina Licensed Health Maintenance Organizations (collectively "Health Insurance Issuers")

FROM: Raymond G. Farmer
Director of Insurance 

RE: Requirements Applicable to Short-Term, Limited-Duration Insurance (STLDI) Policies Sold in South Carolina

DATE: August 28, 2018

I. BACKGROUND, SCOPE AND PURPOSE

This Bulletin is directed to all Health Insurance Issuers writing short-term, limited-duration insurance policies (STLDI policies) sold in the individual market in South Carolina. It sets forth the Department's requirements for STLDI policies in light of the recently released final rule issued by the federal government.¹ That rule², which becomes effective October 2, 2018, permits the sale and renewal of STLDI policies that cover an initial period of less than 12 months, and taking into account any extensions, a maximum duration of no longer than 36 months in total.

Both the new federal rule and the guidelines set forth in this Bulletin apply only to short-term, limited-duration insurance policies sold in the individual market. They do not apply to any other type or category of insurance that is listed separately as excepted benefits in the federal Public Health Service Act (e.g., disability income, hospital indemnity, specified disease insurance, accident insurance, etc.).

¹ The final federal rule was promulgated by the combined efforts of the U.S. Departments of Health and Human Services, Labor and Treasury.

² <https://www.cms.gov/CCIIO/Resources/Files/Downloads/dwnlds/CMS-9924-F-STLDI-Final-Rule.pdf>

II. SUMMARY OF FEDERAL REQUIREMENTS FOR STLDI POLICIES SOLD IN THE INDIVIDUAL MARKET

Effective October 2, 2018, the federal government requires that STLDI policies sold in the individual market:

- Must cover a period that is 12 months or less. In other words, the previous federal standard reducing the *maximum* coverage to less than 3 months is no longer in effect.
- May be renewed for a maximum period of 36 months. Insurers must offer a renewal guarantee with the initial policy. For an additional premium, consumers may elect to purchase the renewal guarantee, allowing the consumer to renew the policy for additional terms, up to the maximum term of 36 months, without an increase in premium or additional evidence of insurability.
- Must contain important language to help consumers fully understand the coverage they are purchasing. A notice (one of two versions – depending on the year of issuance) must be displayed prominently in the contract -- and in any application materials provided in connection with enrollment -- using at least 14-point type. This consumer notice differs slightly for policies issued before January 1, 2019 and those issued after that date, as outlined in item III below.

Please Note: South Carolina Notice Requirements differ slightly from the Federal Requirements. Additional South Carolina Requirements are outlined in Sections III, IV and V of this Bulletin.

III. NOTICE TO CONSUMERS

For policies issued in South Carolina with an effective date beginning on or after October 2, 2018, the issuing insurer must include on the first page of the contract and any application materials provided in connection with enrollment one of the notices prescribed below:

A. FOR POLICIES ISSUED IN 2018

Policies having a coverage start date *before January 1, 2019* and any application materials provided in connection with enrollment in such coverage must include the notice set forth below, using bold and at least 16 point type:

This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits

(such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also contain a cap on lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage. Also, this coverage is not “minimum essential coverage.” If you don’t have minimum essential coverage for any month in 2018, you may have to make a payment when you file your tax return unless you qualify for an exemption from the requirement that you have health coverage for that month.

B. FOR POLICIES ISSUED IN 2019 AND THEREAFTER

Policies having a coverage start date *on or after January 1, 2019* and any application materials provided in connection with enrollment in such coverage must include the notice set forth below, using bold and at least 16 point type:

This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also contain a cap on lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.

IV. ADDITIONAL SOUTH CAROLINA STLDI REQUIREMENTS

The Department is requiring the initial term of STLDI policies to be 11 months or less and limiting renewals to a total duration of 33 months or less of coverage. This should assist consumers in differentiating between STLDI health insurance and major medical insurance coverage under the Affordable Care Act, which are required to be 12 months in duration and guaranteed renewable annually.

To further assist consumers, the Department is also recommending that the following attestation clause be placed above the applicant's signature line on the application:

I hereby attest that I understand that this coverage is not required to comply with federal requirements for health insurance and does not provide "minimum essential coverage" as defined under the Affordable Care Act.

V. FILING OF RATES AND FORMS – PRIOR APPROVAL REQUIRED

All forms and rates for STLDI policies should be submitted via SERFF. **Both** forms and rates are subject to prior approval; and consequently, must be filed with and approved by the Department prior to use. All other required documents/forms should also be submitted. These include, but are not limited to, policy forms, riders, rates, certifications, filing fees, etc.

Effective October 2, 2018, previously filed STLDI products must be resubmitted for form and rate review and approval with the appropriate notice displayed prominently in the contract and in any application materials. These products should be submitted as a new product with a new form number and include all required documentation.

VI. QUESTIONS

Questions regarding this Bulletin should be submitted via email to LAHmail@doi.sc.gov and include complete contact information (company name, phone number and email address for follow up.)

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are Departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.