

# **\*\*\*DRAFT - NOT FOR FILING\*\*\***

## **3901-8-12 Open enrollment.**

### (A) Purpose

The purpose of this rule is to implement the open enrollment statute, sections 3923.58 and 3923.581 of the Revised Code, as recently amended on October 16, 2009, for open enrollment years starting January 1, 2010. This rule requires carriers to provide information to consumers, insurance agents and to the superintendent, pursuant to section 3923.582 of the Revised Code. The open enrollment requirements in this rule apply to any carrier that is in the business of issuing health benefit plans to individuals and/or non-employer groups.

### (B) Authority

This rule is promulgated pursuant to the authority stated in sections 3901.041 and 3923.582 of the Revised Code. Pursuant to section 3 of Substitute Senate Bill 9 of the 130th General Assembly, during the period beginning on January 1, 2014, and expiring January 1, 2018, the operation of sections 3923.58, 3923.581 and 3923.582, of the Revised Code are suspended. As a result, carriers shall not be required to offer open enrollment coverage under the Ohio Open Enrollment Program on or after January 1, 2014. Therefore, during the period beginning on January 1, 2014, and expiring January 1, 2018, the operation of this rule also is suspended. If the amendments made by 42 U.S.C. 300gg-1 and 300gg-6, regarding the requirements related to health insurance coverage, do not take effect January 1, 2014, or become ineffective prior to the expiration of the suspension of January 1, 2018, then sections 3923.58, 3923.581 and 3923.582 of the Revised Code and this rule, in either their present form or as they are later amended, again become operational.

### (C) Advertisement of open enrollment coverage

Carriers subject to the requirement to provide open enrollment coverage under sections 3923.58 and 3923.581 of the Revised Code shall comply with the following steps by the dates specified.

- (1) Each carrier shall provide to the superintendent by November 1, 2009, a toll free number that will be used to accept public inquiries on open enrollment coverage. The carrier shall make this number available to the public, beginning December 1, 2009.
- (2) The toll free number will be answered during the carrier's normal business hours.
- (3) Each carrier shall develop a web page, by January 1, 2010, providing notice of the availability of the open enrollment coverage being offered pursuant to the terms of this rule. The open enrollment web page must be easily accessible to visitors to the home page of the carrier's web site.

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- (4) The web page shall include a table of premium rates to enable a consumer to calculate the maximum premium that would be charged to a person of the same age, gender, geographic location and plan selection.
- (5) The web page shall be available at all times and kept as current as possible.
- (6) A carrier shall inform an applicant that has been denied other health coverage by that carrier of the availability of open enrollment coverage with that carrier.
- (7) Each carrier shall make coverage applications available online for consumers or insurance agents to fill out or print and mail to the company. Carriers shall also provide an online contact person who shall answer queries within two business days.

Carriers must notify applicants, or their agents of record, of the acceptance or rejection of their application within five business days of receipt of a completed application. Carriers may adjust the terms of coverage as necessary in the event subsequent receipt of relevant documents requires. If the carrier offers coverage subject to a waiting period under section 3923.581 of the Revised Code, the first day of the waiting period shall be the date of receipt of the completed application. No carrier may require enrollment to be made in person. Carriers may accept applications for coverage online, by phone or by mail. A representative of the carrier may contact an agent or applicant who has submitted an application in order to explain the operations of the carrier and to answer any questions the agent or applicant may have. Every carrier shall make open enrollment applications and solicitation documents readily available to any potential agent or applicant who requests such material.

- (8) The following information shall be made available on the carrier's web page:
  - (a) Open enrollment will begin on January first of each year and will remain open until the carrier has reached its statutory limit;
  - (b) A clear explanation of "Federally Eligible Individuals" ("FEI") and non-"FEI" individuals including the eligibility requirements for each open enrollment product offered by the carrier; the differences between the "Basic" and "Standard Plan" and any other open enrollment coverage offered. A carrier may use appendix "A" to this rule to satisfy this requirement;
  - (c) Under what circumstances an eligible applicant or the applicant's dependents may be subject to a preexisting condition limitation;
  - (d) The address and web site where a person may obtain an application, if different from the open enrollment web site;
  - (e) The telephone number that a customer may call and hours of operation and an e-mail address in order to request an application or to ask questions;
  - (f) The date the first payment will be due;

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- (g) A rate calculator or a page that would allow a consumer to calculate the actual or maximum premium that would be charged to a person of the same age, gender, geographic location and plan selection; if the rate provided is the maximum rate, the web page shall explain in what circumstances the actual rate will vary;
  - (h) Information regarding the carrier's waiting list, if the carrier maintains one; the process of getting on the waiting list; and the process by which the carrier shall notify applicants of enrollment decisions.
- (9) Information regarding open enrollment must be easily accessible to callers of the toll free telephone number. Persons answering the toll free telephone number must be adequately trained and informed about the open enrollment process. In addition to the information required in paragraph (D)(8) of this rule, persons answering the toll free number must be able to answer customer questions and provide the actual rate, or the maximum rate, that will be applicable to the eligible applicant for all open enrollment products offered by the carrier.
- (10) No carrier may employ any scheme, plan, or device that restricts the ability of any person to enroll during open enrollment.
- (11) The carrier shall electronically certify on a form prescribed by the superintendent if and when it has met the enrollment limit. In addition, the carrier shall provide a status update to the superintendent with regard to any waiting list, if the carrier maintains a waiting list, on the fifth business day of the month for the previous month. The status update must also report when the carrier reopens enrollment in order to maintain its enrollment limit. A carrier that does not maintain a waiting list must explain to the superintendent how it will maintain its enrollment limit as current enrollees drop off.
- (12) The superintendent will provide on the department of insurance web site a common access point for open enrollment information. The following information may be included:
- (a) Carriers' toll free numbers;
  - (b) Links to carriers' open enrollment web page;
  - (c) Whether a carrier's open enrollment program is open or closed;
  - (d) Other information as the superintendent deems appropriate.
- (D) Reporting and data collection requirements for open enrollment
- (1) Carriers subject to the requirement to provide open enrollment coverage under sections 3923.58 and 3923.581 of the Revised Code shall provide data to the superintendent as requested.
  - (2) Carriers are requested to file the data that is enumerated in divisions (C)(1)(a) to (C)(1)(c) and (C)(1)(e) of section 3923.022 of the Revised Code. It should be

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separately reported for the carrier's non-open enrollment policies and the open enrollment policies. This data should include:

- (a) The amount of premiums earned by the carrier both before and after any costs related to the carrier's purchase of reinsurance coverage;
  - (b) The total amount of claims for losses paid by the carrier both before and after any reimbursement from reinsurance coverage;
  - (c) The amount of any losses incurred by the carrier but not reported by the carrier in the current or prior year; and
  - (d) The amount of costs incurred by the carrier for reinsurance coverage.
- (3) Carriers are to report this data electronically for calendar year 2009 and every year thereafter. The non-open enrollment policies include coverage sold to individual insureds or enrollees and non-employer group insureds or enrollees in this state. The open enrollment data should be reported separately for "Federally Eligible Individual" policies and non-"Federally Eligible Individual" policies. "Federally Eligible Individual" has the same meaning as in section 3923.581 of the Revised Code.
- (4) Carriers shall file this data electronically by April first of each year, starting with April 1, 2010.

### (E) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.

## APPENDIX A

## Standardized Web Data

Ohio law requires us to accept a certain number of individuals for open enrollment coverage without regard to health status. If you qualify as a Federally Eligible Individual (FEI), your coverage will be effective immediately without any pre-existing condition exclusion period. If you do not qualify as a FEI, you may apply for non-FEI open enrollment coverage.

You are a Federally Eligible Individual if you meet all of the following conditions -

1. You had health coverage for at least 18 months without a break in coverage greater than 63 days.
2. Your most recent health coverage was under a group health plan, governmental plan or church plan.
3. You are not eligible for coverage under any of the following plans:
  - a. A group health plan
  - b. Medicare
  - c. Medicaid
4. You do not have any other health coverage.
5. Your most recent health coverage was not terminated because of nonpayment of premiums or fraud.
6. If you had been offered the option to continue coverage under COBRA or a state continuation plan, you both elected and exhausted the continuation coverage.

If we have not yet met our enrollment quota, we will offer you the Ohio health care Basic or Standard benefit plans for purchase. You may need to submit proof of previous creditable coverage.

You are a Non-Federally Eligible Individual if you meet the following conditions -

1. You are not applying for coverage as an employee of an employer, member of an association or member of any other group.
2. You do not have any other health coverage and are not eligible to be covered under any private or public health benefit plans including the following:
  - a. Medicare or Medicare supplement policy
  - b. Medicaid
  - c. Any COBRA or state continuation coverage plan
  - d. Other health benefits arrangement

If we have not yet met our enrollment quota, we will offer you the Ohio health care Basic and Standard benefit plans for purchase. We are not required to accept applicants who at the time of enrollment, are confined to a health care facility due to chronic illness or permanent injury. As a

Non-Federally Eligible Individual coverage may be limited for pre-existing conditions for the first 12 months, however, we will credit time you were covered under a recent previous health plan.

[Click here to view an outline of the terms of the Basic and Standard benefit plans we offer.](#)