

BULLETIN 2015-04

Small Employer

Effective October 21, 2015

On October 7, 2015, the Protecting Affordable Coverage for Employees Act (“PACE Act”) was signed into law. The PACE Act amends section 1304(b) of the Patient Protection and Affordable Care Act and section 2791(e) of the Public Health Service Act, and effectively repeals the federal law that would have increased the number of employees included in the definition of small employer to 100 or less. Enactment of the PACE Act reverts the definition of large employer back to 51 or more employees and the definition of small employer to 50 or less employees, as follows:

(1) LARGE EMPLOYER.

The term "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least ~~101~~ **51** employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(2) SMALL EMPLOYER.

The term "small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 1 but not more than ~~100~~ **50** employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

The PACE Act additionally provides states with the option to extend the definition of small employer up to 100. Ohio has not extended the definition of small employer, and to the extent not preempted by federal law, Ohio insurance law continues to define “small employer” as follows:

“Small Employer” means, in connection with a group health benefit plan and with respect to a calendar year and a plan year, an employer who employed an average of at least two but no more than fifty eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.” Ohio Revised Code section 3924.01(N)(1).

Filing Guidance

Forms: Previously approved forms that specifically address small employer group size will need to be modified to comply with the PACE Act and Ohio law. To receive an expedited review and approval of the filing by December 1, 2015, please follow the guidance in Exhibit A and submit form filings no later than November 9, 2015.

Rates: Issuers may incorporate the changes made by the PACE Act into the small employer group rates effective second quarter. The deadline for second quarter 2016 small employer group rate filings is December 4, 2015. Changes will not be permitted prior to second quarter 2016.

Superintendent of Insurance



Mary Taylor
Lt. Governor/Director

EXHIBIT A

Previously approved forms that specifically address small employer group size will need to be modified to comply with the PACE Act and Ohio law. For an expedited review and approval of the filing by December 1, 2015, please follow this guidance and submit form filings no later than November 9, 2015.

General Filing Information:

- Only include changes relevant to small employer group size.
- Form filing deadline: **November 9, 2015.**
- **SERFF Project Name** field or first line of the **Filing Description** field: “Bulletin 2015-04.”
- **Corresponding Filing Tracking Number** field: SERFF number(s) of the previously approved filing(s) of the form(s) being modified.
- **Supporting Documentation** tab:
 - Red-lined version of the form(s) if changing a previously approved form(s).
 - Certification indicating:
 - Changes being made are only relevant to the small employer group size, and;
 - If applicable, all changes to the form(s) are reflected in the red-lined version.
 - Document listing the affected form(s) and the old corresponding form number(s) if new form numbers are needed.

Instructions for Changes to Each Type of Form that Contains the Small Employer Group Definition:

- **Policy/Certificate Forms:**
 - Policy/Certificate forms must be filed in their entirety if changes will be accomplished without an amendment.
 - New form numbers will be required only when the previously approved form has been issued by the carrier.
 - Modifications may also be made by amendment/endorsement.
- **Application Forms:**
 - Applications must be refiled when small employer group size appears in the body of the application.
 - New form numbers will be required only when the previously approved form has been used by the carrier.

- **Amendment Forms:**
 - Amendment forms must be filed in their entirety.
 - New form numbers will be required only when the previously approved form has been issued by the carrier.

- **Statement of Variability Forms:**
 - Statements of Variability must be revised when the group size appears as a variable on any form.