

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 10. LIFE, ACCIDENT AND HEALTH**

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1.	General Provisions
Part 1.	General Provisions
365:10-1-15	Eliminating unfair discrimination on basis of children as single applicants [AMENDED]

**AUTHORITY:**

Insurance Commissioner; 36 O.S. §§ 307.1, 2043, 3611, 4403

**DATES:**

**Adoption:**

October 28, 2011

**Effective:**

Immediately upon approval by the Governor

**Expiration:**

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY RULES:**

n/a

**INCORPORATION BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

A compelling public interest requires an emergency rule to amend new permanent rule 365:10-1-15 made effective on July 14, 2011. The rule requires insurers issuing individual accident and health policies within the state to have an open enrollment period for children under the age of 19. The section required an initial open enrollment period from September 1 through October 31 for the year 2011; however an insufficient number of insurers participated in that initial open enrollment period. Amendment to the definition of "qualifying event" is made in order to encourage additional insurers to participate. An additional open enrollment period, from January 1 through February 29, 2012 is also added.

**ANALYSIS:**

The initial purpose of the rule was to eliminate the act of denying benefits or coverage unfairly in the issuance, terms and conditions of insurance contracts and in underwriting criteria of insurance carriers. It was not intended to prohibit reasonable and justifiable differences in premium rates based upon sound actuarial principles or actual or reasonably anticipated experience. The lack of participation by insurers in the 2011 open enrollment period necessitates change to the rule in an effort to encourage insurers to participate in the 2012 open enrollment periods. During an open enrollment period, children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D):**

**SUBCHAPTER 1. GENERAL PROVISIONS  
PART 1. GENERAL PROVISIONS**

**365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants**

(a) **Purpose.** The purpose of this section is to eliminate the act of denying benefits or coverage unfairly in the issuance, terms and conditions of insurance contracts and in underwriting criteria of insurance carriers. It is not intended to prohibit reasonable and justifiable differences in premium rates based upon sound actuarial principles or actual or reasonably anticipated experience.

(b) **Definitions.**

(1) "Child only policy" means an individual health benefit policy, which provides coverage to an individual under the age of nineteen (19). This shall not include health benefit policies that cover children under the age of nineteen (19) as a dependent;

(2) "Insurer" includes:

(A) every person engaged in the business of making contracts of insurance or indemnity,

(B) a nonprofit hospital service and medical indemnity corporation, and

(C) a health maintenance organization.

(3) "Qualifying event" ~~includes birth, means adoption, or an involuntary a loss of existing health insurance coverage due to marriage of a child's parent, dissolution of a parent's marriage, death of a parent, loss of employer sponsored insurance, loss of eligibility under the Oklahoma Medicaid Program, including loss of eligibility in the SoonerCare or SoonerStart programs, (56 O.S. §§ 1010.1 through 1010.13 and 1011.1 through 1011.11), entry of a valid court order mandating the child be covered, or loss of other existing coverage for any reason other than fraud, misrepresentation or failure to pay premium.~~ "Qualifying event" shall also mean entry of a valid court order mandating the child be covered if there is no employer sponsored coverage available to the parent ordered to provide health insurance coverage to the child.

(c) **Enrollment.**

(1) Enrollment only allowed during certain periods.

(A) Insurers issuing child only policies on or after September 23, 2010 shall only accept applications for coverage during the open enrollment periods outlined in this section or during the ~~30~~ 31 day period following a qualifying event.

(B) Enrollment outside the open enrollment periods shall be prohibited, except upon the occurrence of a qualifying event.

(2) For the year ~~2011~~ 2012, insurers offering child only policies shall hold an open enrollment period from ~~September 1 through October 31~~ January 1 through February 29, 2012. During this open enrollment period, all children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status. ~~Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.~~

(3) ~~Beginning January 1, 2012,~~ Insurers offering child only policies shall hold an open enrollment period ~~from that begins on~~ June 1 through and ends on July 31 of each year. During ~~these~~ the annual open enrollment periods, all children under the age of nineteen (19) shall be offered coverage on a guaranteed issue basis, without any limitations or riders based on health status. ~~Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.~~

(4) 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, shall be displayed prominently on the insurer's website throughout the year.

(5) Applications for coverage during an open enrollment period shall become effective on the first day of the month following receipt of the completed application, except that if mutually agreed upon by the applicant and the insurer an alternative effective date may be selected.

(6) ~~Nothing contained in this section shall alter the ability of an applicant to obtain a child only policy outside the open enrollment period upon the occurrence of a qualifying event.~~ Non-health eligibility underwriting rules may be applied to child-only coverage, provided such eligibility rules are uniformly applied to all applicants applying for child-only coverage.

(7) Insurers shall use such rates as have been filed and approved by the Insurance Commissioner.

(e d) **Insurer participation.** Only insurers that participate in the most recent open enrollment period shall be permitted to write child only policies. Any insurer not participating in the most recent open enrollment period shall be prohibited from issuing child only policies until the commencement of the next subsequent open enrollment period, regardless of whether the policy is issued as a result of a qualifying event.

(f e) **Penalty for violations.** Noncompliance with this section may result, after proper notice and hearing, in an administrative action and penalty.