



STATE OF MISSISSIPPI
Mississippi Insurance Department

COPY

GEORGE DALE
Commissioner of Insurance
State Fire Marshal

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Deputy Commissioner

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October 25, 2000

Honorable Eric Clark
Secretary of State
401 Mississippi Street
Jackson, MS 39201

Re: Mississippi Department of Insurance Regulation No. 2000-5

Dear Secretary Clark:

Please find enclosed for filing the following documents:

- (1) Administrative Procedures Filing Notice;
- (2) Order signed by Commissioner Dale adopting Regulation 2000-5, entitled "Compliance With Health Insurance Portability And Accountability Act of 1996"; and,
- (3) Copy of Regulation 2000-5

Your assistance in this matter is greatly appreciated.

Sincerely,

GEORGE DALE
COMMISSIONER OF INSURANCE

BY: 
J. Mark Haire
Assistant Attorney General

Enclosures

A copy of the regulation may be obtained from the Department's website address at [HTTP://WWW.MID.STATE.MS.US](http://www.mid.state.ms.us), or by contacting the Department's Legal Division at Post Office Box 79, Jackson, Mississippi 39205-0079.

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ADMINISTRATIVE PROCEDURES FILING NOTICE

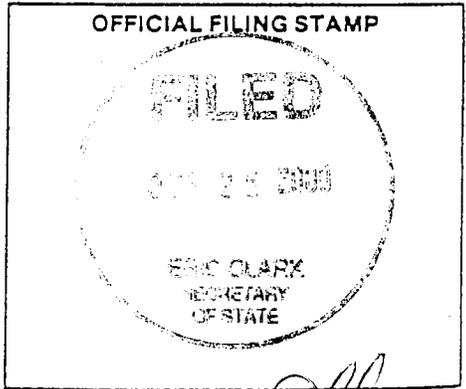
Agency Department of Insurance Person to Contact Mark Haire
Address 550 High St., 18th Flr., Sillers Bldg. Address Post Office Box 79
Jackson, MS 39201 Jackson, MS 39205
Phone 601/359-3577 Transmittal Date October 25, 2000
Copy Attached: Yes No

Name or Number of Rule(s) Regulation 2000-5 "Compliance with Health Insurance Portability and Accountability Act of 1996"
Terms or Substance of the Actions or Description of the Subject and Issues:
It is the purpose of Regulation 2000-5 to require full compliance with certain provisions contained in the Health Insurance Portability and Accountability Act of 1996 by health insurance issuers which offer group or individual health coverage in the State of Mississippi.

Printed Name and Title of Person Authorized to File Rules: Mark Haire Assistant Attorney General
Name Mark Haire Title
Signature

EMERGENCY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original Filing <input type="checkbox"/> Renewal of Effectiveness To Be In Effect <input type="checkbox"/> Days Effective Date: <input type="checkbox"/> Immediately on <input type="checkbox"/> Other (Specify):	Action Proposed: <input type="checkbox"/> New Rule(s) <input type="checkbox"/> Amendment to Existing Rule(s) <input type="checkbox"/> Repeal of Existing Rule(s) <input type="checkbox"/> Adoption by Reference Proposed Date of Adoption: <input type="checkbox"/> 30 Days after Filing <input type="checkbox"/> Other (Specify):	Action Taken: <input type="checkbox"/> Adopted with No Changes in Text <input checked="" type="checkbox"/> Adopted with Changes <input type="checkbox"/> Adopted by Reference <input type="checkbox"/> Withdrawn Date Action Taken <u>10/25/00</u> Effective Date <input checked="" type="checkbox"/> 30 Days After Filing <input type="checkbox"/> Other (Specify):

DO NOT WRITE BELOW THIS LINE		
OFFICIAL FILING STAMP	OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
Accepted for filing by _____	Accepted for filing by _____	Accepted for filing by <u>[Signature]</u>



STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE

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IN THE MATTER OF:

COMPLIANCE WITH HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT OF 1996
REGULATION NO. 2000-5

CAUSE NO. 00-4069

ORDER

This cause came on for hearing to consider the adoption of Mississippi Department of Insurance Proposed Regulation No. 2000-4, entitled "Compliance With Health Insurance Portability and Accountability Act of 1996", and the Commissioner of Insurance ("Commissioner"), or his duly appointed representative, having provided interested parties with the opportunity to submit written comments, and having held a public hearing and heard the comments of all interested parties and the evidence produced by such parties, finds as follows, to-wit:

I.

That on or about August 29, 2000, the Commissioner, or his duly appointed representative, pursuant to the provisions of Miss. Code Ann. § 25-43-7(1) (Rev. 1999), filed with the Secretary of State of the State of Mississippi notice that said Commissioner, or his duly appointed representative, would hold a public hearing on Friday, September 29, 2000, at 9:30 a.m., in the Offices of the Commissioner, 18th Floor, Walter Sillers State Office Building, 550 High Street, Jackson, Hinds County, Mississippi, to afford all interested persons the opportunity to submit testimony and evidence and to give opinions, make comments, suggestions or objections concerning proposed Regulation 2000-4.

II.

That the Commissioner, or his duly appointed representative, pursuant to the provisions of Miss. Code Ann. § 25-43-7(1) (Rev. 1999), mailed, postage prepaid, copies of an Administrative Procedures Filing Notice and Notice of Hearing to all persons who had made a timely request of the Mississippi Department of Insurance for advance notice of said Department's rule-making proceedings.

III.

That pursuant to said Notice of Hearing, a public hearing was held before the Commissioner, or his duly appointed representative, on Friday, September 29, 2000, at 9:30 a.m., in the Offices of the Commissioner, 18th Floor, Walter Sillers State Office Building, Jackson, Hinds County, Mississippi, in which all interested parties were given an opportunity to present their views, opinions, suggestions, comments or objections relative to proposed Regulation 2000-4.

IV.

That during the course of said Public Hearing it was noted that Proposed Regulation 2000-4 was mistakenly numbered when filed with the Secretary of State's Office; and that prior to filing the final version for adoption, said Regulation should be properly re-numbered as Regulation 2000-5.

V.

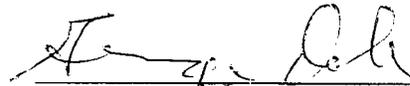
That the Commissioner, after having considered all relevant evidence, is of the opinion that it would be in the public interest to adopt Mississippi Department of Insurance Regulation 2000-5, entitled "Compliance With Health Insurance Portability And Accountability Act of 1996".

IT IS, THEREFORE, ORDERED that Mississippi Department of Insurance Regulation No. 2000-5 (originally filed as Proposed Regulation 2000-4), a copy of which is attached hereto as Exhibit "A", and made a part hereof as if copied fully herein, should be and same is hereby adopted,

to be effective thirty days from and after its filing with the Office of the Secretary of State of the State of Mississippi.

IT IS FURTHER ORDERED that any interested person or party who feels they will be adversely affected by this Order shall have ten days from the date of this Order in which such adversely affected person or party may file with the Commissioner a written statement outlining how such person will be adversely affected and their reasons for review of this Order.

SO ORDERED, this the 25th day of October, 2000.



GEORGE DALE
COMMISSIONER OF INSURANCE

**MISSISSIPPI DEPARTMENT OF INSURANCE
REGULATION NO. 2000-5
COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND
ACCOUNTABILITY ACT OF 1996**

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Section 1. Authority

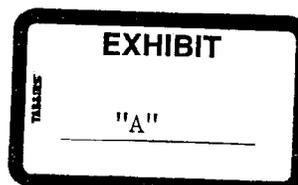
This Regulation is promulgated pursuant to the authority vested in the Commissioner of Insurance under Miss. Code Ann. §§ 83-1-43 and 83-5-1 (Rev. 1999), and is promulgated in accordance with Mississippi Insurance Department Regulation No. 88-101, said Regulation being the Rules of Practice and Procedure Before the Mississippi Insurance Department.

Section 2. Purpose

It is the purpose of this Regulation to require full compliance with certain provisions contained in the Health Insurance Portability and Accountability Act of 1996, as Amended (hereinafter "HIPAA"), by health insurance issuers which offer group or individual health insurance coverage in the State of Mississippi.

Section 3. Definitions

- (A) For purposes of this Regulation, the term "health insurance issuer" means any insurance company, hospital or medical service plan or any entity defined in Miss. Code Ann. § 83-41-303(n) (Rev. 1999), which offers group or individual health insurance coverage in the State of Mississippi.
- (B) For purposes of this Regulation, the terms "medical care", "health insurance coverage", "individual health insurance coverage", "health status-related factor", "network plan", "placed for adoption", "individual market", "large employer", "large group market", "small employer", " and "small group market" shall be defined as set forth at 42 U.S.C. § 300gg-91. Nothing in this Regulation shall apply to the excepted benefits as defined at 42 U.S.C. § 300gg-91(c).



- (C) Miss. Code Ann. §§ 83-63-3(g) and 83-63-6 (Rev. 1999), classify a sole proprietor as a small employer where certain conditions are met. Such classification of a sole proprietor as a small employer under Mississippi law shall not be affected by this Regulation.

Section 4. Individual Market Requirements

(A) Guaranteed Renewability Of Individual Health Insurance Coverage

At 42 U.S.C. § 300gg-42, and at 45 C.F.R. § 148.122, HIPAA requires health insurance issuers that provide individual health insurance coverage in the individual market to renew and or continue in force such coverage at the option of the individual, subject to certain exceptions. These provisions also set forth certain requirements for the uniform termination of coverage in the individual market. Every health insurance issuer which offers individual health insurance coverage in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-42 and 45 C.F.R. § 148.122.

(B) Certificates Of Creditable Coverage

At 42 U.S.C. § 300gg-43, and at 45 C.F.R. § 148.124, HIPAA requires health insurance issuers that provide individual health insurance coverage in the individual market to provide certificates of creditable coverage under a variety of circumstances when an individual's coverage terminates. Every health insurance issuer which offers individual health insurance coverage in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-43 and 45 C.F.R. § 148.124.

Section 5. Small Group Market Requirements

(A) Guaranteed Availability Of Coverage In The Small Group Market

At 42 U.S.C. § 300gg-11(a), (c), (d), (e) and (f), HIPAA requires health insurance issuers that offer coverage in the small group market to accept every small employer that applies for coverage, including every eligible individual of the small employer. These provisions also prescribe special rules for network plans, apply certain financial capacity limits and set forth limited exceptions. At 45 C.F.R. § 146.150, HIPAA regulations clarify that health insurance issuers in the small group market generally must offer to each small employer all products that are approved for sale in the small group market and that the issuer is actively marketing, and must accept any small employer that applies for any of those products. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-11(a), (c), (d), (e) and (f) and 45 C.F.R. § 146.150.

(B) Prohibition Against Discrimination Within Small Groups

At 42 U.S.C. § 300gg-1, and at 45 C.F.R. § 146.121, HIPAA bars health insurance issuers that offer coverage in the small group market from establishing rules for eligibility that are

based on health status-related factors, and from requiring individuals within small groups to pay a higher premium or contribution than would a similarly situated individual, based on a health status-related factor. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-1 and 45 C.F.R. § 146.121.

(C) Preexisting Condition Exclusions

- (1) Miss. Code Ann. § 83-9-49 (1) (Rev. 1999) permits health insurance issuers in the small group market to apply preexisting condition limitations which do not contain a definition of a preexisting condition more restrictive than the following:
 - (a) A condition that would have caused an ordinary prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;
 - (b) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage.

At 42 U.S.C. § 300gg(a) and 45 C.F.R. § 146.111(a)(1)(i), HIPAA provides that a preexisting condition exclusion in a policy issued in the small group market can only relate to a condition, regardless of its cause, for which medical advice, diagnosis, care or treatment was recommended or received within the 6-month period ending on the enrollment date. Unlike Miss. Code Ann. § 83-9-49 (1) (b) (Rev. 1999), there is no provision under HIPAA allowing a health insurance issuer in the small group market to apply a preexisting condition limitation for a condition that would have caused an ordinary prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage.

Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(a) and 45 C.F.R. § 146.111(a)(1)(i), which limit the definition of a preexisting condition to "a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date."

- (2) At 42 U.S.C. § 300gg(d), and at 45 C.F.R. § 146.111(b), HIPAA bars health insurance issuers offering coverage in the small group market from applying preexisting conditions to certain newborns, certain adopted children and to the condition of pregnancy. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(d) and 45 C.F.R. § 146.111(b).

- (3) At 42 U.S.C. § 300gg(b)(1)(B), HIPAA bars health insurance issuers offering coverage in the small group market from applying preexisting condition limitations to genetic information in the absence of a diagnosis of the condition related to such information. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(b)(1)(B).

(D) Rules Relating To Crediting Previous Coverage

At 42 U.S.C. § 300gg(c), and at 45 C.F.R. § 146.113, HIPAA requires health insurance issuers offering coverage in the small group market to reduce or eliminate the duration of any preexisting condition exclusion by the duration of the person's creditable coverage. Coverage is creditable if it ended within 63 days of the new coverage. The duration of consecutive creditable coverages are added to calculate the total amount of creditable coverage, as long as the break between such coverages does not exceed 63 days. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(c) and 45 C.F.R. § 146.113.

(E) Certificates Of Creditable Coverage

At 42 U.S.C. § 300gg(e), and at 45 C.F.R. § 146.115, HIPAA requires health insurance issuers in the small group market to provide certificates of creditable coverage under a variety of circumstances when a person's coverage terminates. Every health insurance issuer providing coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(e) and 45 C.F.R. § 146.115.

(F) Special Enrollment Periods

At 42 U.S.C. § 300gg(f), and at 45 C.F.R. § 146.117, HIPAA requires health insurance issuers which offer coverage in the small group market to offer eligible employees and dependents special enrollment rights upon the loss of certain other coverage. These provisions also require health insurance issuers in the small group market to offer special enrollment rights when a new dependent becomes eligible through marriage, birth or adoption. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(f) and 45 C.F.R. § 146.117.

(G) Health Maintenance Organization Affiliation Period

At 42 U.S.C. § 300gg(g), and at 45 C.F.R. § 146.119, HIPAA permits health maintenance organizations ("HMOs") which offer coverage in the small group market to apply affiliation periods in the small group market only if the HMOs do not apply any preexisting condition exclusions, the period is applied uniformly without regard to health status-related factors, and the period does not exceed 2 months, or three months for late enrollees. Every HMO which

offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(g) and 45 C.F.R. § 146.119.

(H) Guaranteed Renewability Of Coverage In The Small Group Market

At 42 U.S.C. § 300gg-12, and at 45 C.F.R. § 146.152, HIPAA requires health insurance issuers in the small group market to offer guaranteed renewal of policies, with some specific exceptions. These provisions also set forth certain requirements for the uniform termination of coverage in the small group market. Every health insurance issuer which offers coverage in the small group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-12 and 45 C.F.R. § 146.152.

Section 6. Large Group Market Requirements

(A) Prohibition Against Discrimination Within Large Groups

At 42 U.S.C. § 300gg-1, and at 45 C.F.R. § 146.121, HIPAA bars health insurance issuers that offer coverage in the large group market from establishing rules for eligibility that are based on health status-related factors, and from requiring individuals within large groups to pay a higher premium or contribution than would a similarly situated individual, based on a health status-related factor. Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-1 and 45 C.F.R. § 146.121.

(B) Preexisting Condition Exclusions

(1) Miss. Code Ann. § 83-9-49 (1) (Rev. 1999) permits health insurance issuers in the large group market to apply preexisting condition limitations which do not contain a definition of a preexisting condition more restrictive than the following:

- (a) A condition that would have caused an ordinary prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage;
- (b) A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage.

At 42 U.S.C. § 300gg(a) and 45 C.F.R. § 146.111(a)(1)(i), HIPAA provides that a preexisting condition exclusion in a policy issued in the large group market can only relate to a condition, regardless of its cause, for which medical advice, diagnosis, care or treatment was recommended or received within the 6-month period ending on the enrollment date. Unlike Miss. Code Ann. § 83-9-49 (1) (b) (Rev. 1999), there is no provision under HIPAA allowing a health insurance issuer in the large group market to apply a preexisting condition limitation for a condition that would have caused an

ordinary prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage.

Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(a) and 45 C.F.R. § 146.111(a)(1)(i), which limit the definition of a preexisting condition to "a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date."

- (2) At 42 U.S.C. § 300gg(d), and at 45 C.F.R. § 146.111(b), HIPAA bars health insurance issuers offering coverage in the large group market from applying preexisting conditions to certain newborns, certain adopted children and to the condition of pregnancy. Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(d) and 45 C.F.R. § 146.111(b).
- (3) At 42 U.S.C. § 300gg(b)(1)(B), HIPAA bars health insurance issuers offering coverage in the large group market from applying preexisting condition limitations to genetic information in the absence of a diagnosis of the condition related to such information. Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(b)(1)(B).

(C) Rules Relating To Crediting Previous Coverage

At 42 U.S.C. § 300gg(c), and at 45 C.F.R. § 146.113, HIPAA requires health insurance issuers offering coverage in the large group market to reduce or eliminate the duration of any preexisting condition exclusion by the duration of the person's creditable coverage. Coverage is creditable if it ended within 63 days of the new coverage. The duration of consecutive creditable coverages are added to calculate the total amount of creditable coverage, as long as the break between such coverages does not exceed 63 days. Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(c) and 45 C.F.R. § 146.113.

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At 42 U.S.C. § 300gg(e), and at 45 C.F.R. § 146.115, HIPAA requires health insurance issuers in the large group market to provide certificates of creditable coverage under a variety of circumstances when a person's coverage terminates. Every health insurance issuer providing coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg(e) and 45 C.F.R. § 146.115.

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At 42 U.S.C. § 300gg-12, and at 45 C.F.R. § 146.152, HIPAA requires health insurance issuers in the large group market to offer guaranteed renewal of policies, with some specific exceptions. These provisions also set forth certain requirements for the uniform termination of coverage in the large group market. Every health insurance issuer which offers coverage in the large group market in the State of Mississippi shall fully comply with the provisions of 42 U.S.C. § 300gg-12 and 45 C.F.R. § 146.152.

(F) Special Enrollment Periods

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(G) Health Maintenance Organization Affiliation Period

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Section 7. Conflicts Of Laws

To the extent the provisions of this Regulation conflict with other provisions of State law, the provisions of this Regulation shall be controlling pursuant to the authority granted under Miss. Code Ann. § 83-1-43 (Rev. 1999), and the Health Insurance Portability and Accountability Act of 1996, as Amended.

Section 8. Separability

If any provision of this Regulation, or the application of the provision to any person or circumstance, shall be held invalid, the remainder of the Regulation, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

Section 9. Effective Date

This Regulation shall become effective thirty (30) days after filing with the Office of the Secretary of State of the State of Mississippi.