



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

DIRECTIVE 147 (REVISED AND REISSUED)

TO: ALL HEALTH INSURANCE ISSUERS OFFERING HEALTH INSURANCE IN THE INDIVIDUAL, LARGE AND SMALL GROUP MARKETS IN LOUISIANA

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: REQUIREMENTS FOR DISCONTINUANCE OF HEALTH INSURANCE PRODUCTS

DATE: FEBRUARY 1, 2022

Directive 147, originally issued February 17, 1999, and thereafter reissued with revisions on January 26, 2001, and May 1, 2002, respectively, is hereby revised and reissued to include the redesignation and renumbering of Title 22 by Acts 2008, No. 415, § 1, effective January 1, 2009, and to provide updated guidance and clarity due to changes in the law in accordance with Acts 2021, No. 217, § 1.

The purpose of Directive 147, as originally issued, was to establish and enforce uniform notice requirements with respect to a health insurance issuer electing to discontinue offering either a particular type of insurance product or the entirety of its individual and/or group health insurance coverage in Louisiana. The provisions of La. R.S. 22:1068 and La. R.S. 22:1074, as amended, set forth the requirements applicable to health insurance issuers seeking to discontinue either a particular type of product or all types of health insurance products marketed in this state.

A. REQUIREMENTS FOR THE DISCONTINUANCE OF A PARTICULAR TYPE OR PRODUCT OF GROUP OR INDIVIDUAL HEALTH INSURANCE COVERAGE

La. R.S. 22:1068 and La. R.S. 22:1074 authorize health insurance issuers to discontinue offering a particular type of insurance product in both the small and large group markets, and the individual market. To make an election to discontinue offering a particular type of health insurance coverage, the health insurance issuer must provide notice in writing and do so in a form and manner specified by the Commissioner of Insurance (hereinafter "Commissioner"). Additionally, such authorization is contingent upon the satisfaction of the following requirements:

1. A health insurance issuer is required to provide notice to each plan sponsor or individual regarding a particular product in a particular market (and to all participants, covered individuals and beneficiaries covered under such coverage) of the discontinuation at least ninety calendar days before the date the coverage will be discontinued. When discontinuing a particular type of health insurance product, the health insurance issuer shall provide notice to each individual, participant, and beneficiary covered under the health insurance coverage being discontinued. In accordance with La. R.S. 22:1068 and La. R.S. 22:1074, such notice shall be provided at least ninety days prior to the date of non-renewal. The ninety-day period following notification of discontinuance does not begin until a complete and accurate disclosure of all remaining types of group health insurance coverage available to the small or large employer or individual has been provided. For each small or large employer plan sponsor provided coverage, the health insurance issuer shall include the following in the notice:
 - a. The type of coverage being discontinued; and
 - b. The option to purchase any of the products currently being offered in such market pursuant to La. R.S. 22:1068 and La. R.S. 22:1074.
2. The health insurance issuer must offer to each plan sponsor or individual regarding a particular product, on a guaranteed availability basis, the option to purchase all (or any, in the case of the large group market) other health insurance coverage currently being offered by the health insurance issuer to a group health plan or individual health insurance coverage in that market. Please note that excepted benefits, as defined under La. R.S. 22:1061, are not a type of health insurance coverage that can be offered to meet the statutory requirements. If no other type of health insurance coverage is available to an individual or plan sponsor, the health insurance issuer shall follow the requirements to discontinue offering all health insurance coverage being marketed in the state, as set forth in Section B of this directive.
3. In exercising the option to discontinue coverage of a type of individual or group health insurance, the health insurance issuer shall act uniformly without regard to the claims experience of those individuals and sponsors or any health status-related factor relating to any covered individuals, participants, or beneficiaries; covered or new participants or beneficiaries who may become eligible for such coverage.

Prior to providing notices to covered plan sponsors and individuals, the health insurance issuer shall submit to the Commissioner SERFF filings as required by La. R.S.

22:1068 and La. R.S. 22:1074. For guidance related to these filings, please see Directive 205.

Health insurance issuers should be mindful that the policy of any individual or plan sponsor whose health coverage is not subject to annual renewal or renegotiation until after the minimum ninety-day notice period must continue in force until the date upon which the contracted period of coverage ends. To assure that the full ninety-day notice period is provided, health insurance issuers must extend coverage where necessary, and non-renew only after the requisite notice has been provided. Pursuant to La. R.S. 22:1068 and La. R.S. 22:1074, existing insurance contracts can only be non-renewed upon the expiration of the stated period of coverage. Similarly, existing blocks of business in a product discontinuation situation can only be discontinued by non-renewing coverage as its specific term expires.

B. REQUIREMENTS FOR THE DISCONTINUANCE OF ALL INDIVIDUAL AND/OR GROUP HEALTH INSURANCE COVERAGE

La. R.S. 22:1068 and La. R.S. 22:1074 allow health insurance issuers to discontinue offering new coverage and to non-renew all health insurance coverage in the individual, small or large group markets, or all markets. Please be mindful that all health insurance issued or delivered for issuance in the state in the affected market or markets must be discontinued and non-renewed. Pursuant to La. R.S. 22:1068 and La. R.S. 22:1074, the following statutory requirements must be satisfied:

1. Prior to providing notices to covered plan sponsors, participants, beneficiaries and individuals, the health insurance issuer shall submit written notice to the Commissioner of such discontinuation that includes, at a minimum, the following information:
 - a. Copies of all proposed notices.
 - b. The market or markets in which the health insurance issuer is discontinuing all coverage in this state.
 - c. A specimen copy of each type of health insurance product to be discontinued along with evidence of the Commissioner's approval of the related policy forms.
 - d. The total number of individuals and/or plan sponsors that will be affected by the election to discontinue offering health insurance coverage.
 - e. The total number of covered lives that will be affected by the election to discontinue offering health insurance coverage.

- f. A listing that identifies each plan sponsor whose coverage will not be renewed and the date on which coverage shall terminate.
 - g. The name, address, telephone number, and other identifying information may be needed to contact the health insurance issuer by the Commissioner or his representative regarding the discontinuation and plan sponsors affected by the decision.
 - h. Written acknowledgment that the health insurance issuer may not issue any coverage in the affected market or markets of this state during the five-year period beginning on the date the last health insurance coverage is non-renewed.
2. When a health insurance issuer elects to discontinue offering both new and renewal coverage, all health insurance coverage issued or delivered for issuance in this state in the affected market or markets shall be discontinued and shall not be renewed. Any individual and/or plan sponsor whose coverage would have annually renewed or been subject to renegotiation prior to the end of the minimum 180-day notice period shall be extended to assure the individual and/or plan sponsor is provided with such minimum notice period in order to obtain replacement coverage. Any individual and/or plan sponsor whose coverage is not subject to renewal or renegotiation until after the minimum 180-day notice period shall continue in force until the original termination date or date upon which the contracted period of coverage ends. Existing contracts of insurance can only be non-renewed prior to expiration of the stated period of coverage, as provided for under La. R.S. 22:1068 and La. R.S. 22:1074. Existing blocks of business in a market exit situation can only be discontinued by non-renewing coverage as its specific term expires.
3. Pursuant to La. R.S. 22:1068 and La. R.S. 22:1074, the health insurance issuer shall provide a written notice to each individual and/or plan sponsor of the health insurance issuer's decision to discontinue offering coverage in the affected market or markets at least 180 days prior to the date of discontinuation of such coverage. The health insurance issuer shall provide notice to each insured individual, participant, and beneficiary whose coverage is being discontinued at least 180 days prior to the date of the discontinuation of such individual and/or group coverage.

Pursuant to the Patient Protection and Affordable Care Act found at 42 U.S.C § 300gg-2 as well as the Public Health Service Act found at 45 CFR 147.106, health insurance issuers that cease offering new coverage in a particular market may not issue coverage in the applicable market (or markets) and in the State of Louisiana during the five-year period, beginning on the date of discontinuation of the last coverage not

renewed. As explained in the Department of Health and Human Services Program Memorandum, Transmittal No. 02-01, to the extent that a health insurance issuer continues to renew coverage, the five-year period does not begin to run.

C. REQUIREMENTS FOR MODIFICATION OF A HEALTH INSURANCE PRODUCT

La. R.S. 22:1068 and La. R.S. 22:1074 permit health insurance issuers to modify the health insurance coverage for a product offered to a group health plan in the small or large group market or, for a policy form offered to individuals in the individual market provided that the following requirements are met:

1. The modification must occur at the time of coverage renewal.
2. The modification must be applied on a uniform basis among all small or large employers covered by that group health plan in the small or large group market or all individuals with the same policy form in the individual market. Both the modification and the notice of modification must first be approved by the Commissioner in accordance with these requirements.
3. The health insurance issuer must notify each affected covered small or large employer and enrollee, or the affected individual of the modification of coverage of a particular product or modification of drug coverage no later than the sixtieth day before the date the modification is effective. The notice must be on the form approved by the Commissioner. The health insurance issuer must submit the modification of coverage of a particular product or modification of drug coverage and the notice of modification to the Commissioner for review and approval before any modification or notice of modification may be made. However, if the modification only affects drug coverage, the health insurance issuer does not need to first obtain the Commissioner's approval. Notwithstanding Subsection (C)(1) above, modification of drug coverage for any drug increasing over \$300.00 per prescription or refill with an increase in the wholesale acquisition cost of a least twenty-five percent in the prior 365 days may occur at any time provided that thirty-day notice of the modification of coverage is given. The thirty-day notice of the modification of coverage shall include information on the health insurance issuer's process for an enrollee's physician to request an exception from the health insurance issuer's modification of drug coverage for purposes of continuity of care of the patient.

D. COMPLIANCE AND ENFORCEMENT

Subject to the approval of the Commissioner, a health insurance issuer exercising its option to discontinue health coverage may arrange for the assumption of coverage by another health insurance issuer, thereby protecting the terms and conditions as originally issued. The health insurance issuer shall be prohibited from issuing any health insurance

coverage in the market and state during the five-year period, beginning on the date of the discontinuation of the last health insurance coverage not renewed.

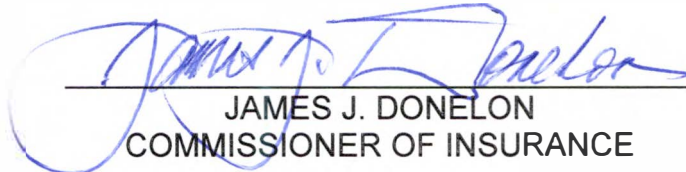
Any health insurance issuer who is found to be in violation of the provisions of Directive 147 (Revised and Reissued) shall be subject to the civil money penalties outlined under La. R.S. 22:1071.

You are hereby directed to comply with the purpose and intent of Directive 147 (Revised and Reissued).

Please be governed accordingly.

If there are any questions regarding this Directive, please contact the Deputy Commissioner for the Office of Health, Life, and Annuity, electronically at public@ldi.la.gov.

Baton Rouge, Louisiana, this 1st day of February 2022.



JAMES J. DONELON
COMMISSIONER OF INSURANCE