

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 118. Small Employer Health Purchasing Groups

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 2. Authority

This Rule is issued pursuant to the authority vested in the Insurance Commissioner in Ark. Code Ann. §§23-61-108 and 23-86-505."

"4. Effective Date

The provisions of this Rule shall be effective on November 13, 2003."

"Section 7. Severability Provision

If any section or portion of a section of this Regulation or the application thereof to any person or circumstances is held invalid by a court, the remainder of this Regulation or the application of its provisions to other persons or circumstances shall not be affected."

Subpart 1. Generally

23 CAR § 118-101. Purpose.

(a) The purpose of this part is to implement Acts 2003, No. 1358, that amended Arkansas Code § 23-86-505.

(b) This part prescribes the form and manner of the written notice, required by the Small Employer Health Insurance Purchasing Group Act of 2001, Arkansas Code § 23-86-501 et seq., provided by a health insurance purchasing group offering a health

benefits plan, as defined in Arkansas Code § 23-86-502(6), that does not provide state-mandated health benefits, as defined in Arkansas Code § 23-86-502(15)(A).

Authority. Arkansas Code §§ 23-61-108, 23-86-505.

23 CAR § 118-102. Applicability and scope.

This part shall apply to all health insurance purchasing groups, as defined in Arkansas Code § 23-86-502(7).

Authority. Arkansas Code §§ 23-61-108, 23-86-505.

23 CAR § 118-103. Required written notice upon rejection of state-mandated health benefits.

(a)(1) Every health insurance purchasing group that offers a health benefits plan that, either in whole or in part, will not have state-mandated health benefits, as defined in Arkansas Code § 23-86-502(15)(A), shall provide to each eligible employee a written notice that the health benefits plan does not contain all state-mandated benefits.

(2) This written notice shall be provided to each eligible employee no later than thirty (30) days after the eligible employee enrolls in the plan.

(3) Such notice may be provided in a separate document, incorporated in the enrollment application, or provided in a certificate of coverage provided to the eligible employee.

(b) The notice shall:

(1) List each state-mandated health benefit or service that is not provided in the health benefits plan or plans; and

(2) Urge the eligible employee to consult with his or her employer, representatives of the health insurance purchasing group, the purchasing group health carrier, or the State Insurance Department Consumer Services Division or Legal Division about questions or concerns related to the nature of the state-mandated health benefit that is not offered in the health benefits plan.

(c) The health insurance purchasing group may contract with its health insurance purchasing group health carrier to provide the notice required by this part.

Authority. Arkansas Code §§ 23-61-108, 23-86-505.

23 CAR § 118-104. Failure to provide required written notice of state-mandated health benefits.

(a) Every health insurance purchasing group or health carrier contracted to provide the written notice under 23 CAR § 118-103 that fails, as a pattern or practice, to provide the written notice as required under 23 CAR § 118-103 shall be deemed to have committed a violation of the Trade Practices Act, Arkansas Code § 23-66-201 et seq., pursuant to Arkansas Code § 23-66-206(8).

(b) It shall be presumed that a health insurance group or health insurance purchasing group health carrier is not engaged in a trade practice violation under this section if the health insurance purchasing group or health insurance purchasing group health carrier:

- (1) Has a reasonable procedure in place; and
- (2) Regularly provides the written notices as required under 23 CAR § 118-103.

(c) Upon the failure to provide the written notice as required in 23 CAR § 118-103, the proposed eligible employee is deemed to have selected a health benefits plan subject to each applicable state-mandated health benefit or service that was not listed in the required written notice.

(d) The responsibility for payment for any health benefits or services that were required to be listed in the notice but were not so listed in the notice, and are therefore required to be covered under this section, shall be the responsibility of the small employer health purchasing group rather than the health insurance purchasing group health carrier.

Authority. Arkansas Code §§ 23-61-108, 23-86-505.