

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 119. Health Insurance Consumer Choice

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 23-79-803(c)."

"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 § 119-101. Purpose.

(a) The purpose of this part is to implement Acts 2003, No. 1359, which amended Arkansas Code § 23-79-803(c).

(b) This part prescribes the form and manner of written notices provided by organizations offering health benefits plans, as defined in Arkansas Code § 23-79-802(1), that do not provide state-mandated health benefits, as defined in Arkansas

Code § 23-79-802(2)(A), in accordance with the Arkansas Health Insurance Consumer Choice Act, Arkansas Code § 23-79-801 et seq.

Authority. Arkansas Code §§ 23-61-108, 23-79-803, 23-79-805.

23 CAR § 119-102. Applicability and scope.

This part shall apply to all organizations offering health benefits plans, as defined in Arkansas Code § 23-79-802(1).

Authority. Arkansas Code §§ 23-61-108, 23-79-803, 23-79-805.

23 CAR § 119-103. Required written notice upon rejection of state-mandated health benefits.

(a)(1) Every organization that offers to its proposed insureds a health benefits plan that, either in whole or in part, does not have state-mandated health benefits, as defined in Arkansas Code § 23-79-802(2), shall provide to the policyholder and to each certificate holder of the plan a written notice that the health benefits plan, selected by the policyholder, does not contain all state-mandated benefits.

(2) This written notice shall be provided no later than thirty (30) days after the certificate holder enrolls in the plan.

(3) Such notice may be provided in a separate document, incorporated in the application, or provided in a certificate of coverage provided to the policyholder and each certificate holder.

(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 policyholder and certificate holder to consult with his or her health insurance agent 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) It shall be the duty or obligation of the health insurer or agent to provide the required written notice under this section to each policyholder and certificate holder.

Authority. Arkansas Code §§ 23-61-108, 23-79-803, 23-79-805.

23 CAR § 119-104. Failure to provide required written notice of state-mandated health benefits.

(a) Every organization that fails, as a pattern or practice, to provide the written notice as required under 23 CAR § 119-103 shall be:

(1) 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); and

(2) Subject to the penalties and provisions governing violations of the Trade Practices Act in Arkansas Code § 23-66-210.

(b) It shall be presumed that the organization is not engaged in a trade practice violation under this section if it has a reasonable procedure in place and regularly provides the written notices as required under 23 CAR § 119-103.

(c) If the organization, or agent thereof, fails to provide the written notice as required in 23 CAR § 119-103, the policyholder or certificate holder 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.

Authority. Arkansas Code §§ 23-61-108, 23-79-803, 23-79-805.