

have their most recent coverage terminated because of nonpayment of premium or fraud; and (4) had been offered continuation under COBRA or other similar program and exhausted this coverage, or the individual premium rate for such continuation coverage is higher than CHIP. Applicants will not have to show that they are medically uninsurable if these requirements are met. You may obtain further information about CHIP from the Nebraska Department of Insurance.

### **Other Important Points**

- ⇒ Nebraska law does not require that insurers must allow you to take your health insurance plan from your present job to your new job, nor does it require employers to provide health insurance.
- ⇒ Nebraska law does not affect the premium rates that may be charged, however, group employer plans that have fewer than fifty employees are subject to some limitations under the Small Employer Health Insurance Availability Act, a Nebraska law.
- ⇒ Nebraska law may not apply to your employer's plan if it is self-insured or issued through a group insurance policy that is located in another state. However, you may still send us an inquiry about your plan.

This brochure is not intended to answer all the questions you may have regarding HIPAA. Questions may be directed to the Consumer Affairs Division of the Nebraska Department of Insurance.

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## How Preexisting Conditions May Affect Your Health Insurance

# HIPAA

The Health Insurance Portability  
and Accountability Act of 1996



Nebraska Department  
Of Insurance

## **Changes in Health Insurance**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), also referred to as the Kassebaum/Kennedy bill, is a federal law that protects persons who move from one job to another by limiting or eliminating the preexisting condition exclusion period that may be encountered in a new job that offers health insurance. HIPAA also requires health insurance plans to be renewed with some exceptions. Nebraska has made changes to state law that adopt these same requirements. Nebraska Legislative Bill 862 (1997) adopted the requirements of HIPAA and was applicable to health insurance effective July 1, 1997.

## **Preexisting Conditions**

### ***How will preexisting conditions be treated?***

A health condition that you already have when you change from one group health plan to another is called a preexisting condition. Group health insurance that is provided through an employer may exclude coverage for these preexisting conditions for up to one year. However, your new employer will have to credit you for the time you were previously covered by health insurance. There must not be a gap of more than 63 days between your prior health plan and your new one. Your previous insurer or employer must provide documentation to you to show you have had prior health insurance.

### ***What happens if you don't enroll for coverage?***

If you do not enroll for the coverage when you are first eligible and try to enroll later, your existing medical conditions may not be covered for up to 18 months. However, there is an exception to this rule. Group health plans may not exclude coverage for conditions related to pregnancy, or adoptive children and newborns who apply for coverage within 30 days of adoption or birth.

You may still enroll for coverage and not be treated as a late enrollee if you initially declined health insurance with your new employer because (1) you were already covered by other health insurance, and (2) the other coverage is later terminated because of death of a spouse, legal separation, divorce, or COBRA was exhausted.

## **Dependent Coverage**

### ***May dependents also be covered?***

Group health plans that provide family coverage must allow dependents to enroll in the plan if a person becomes a dependent because of marriage, birth, or adoption. The spouse of an eligible employee may enroll in the plan because of the birth or adoption of a child.

### ***Are health plans guaranteed renewable?***

Group and individual health insurance plans may be renewed except when the employer or individual policyholder has committed fraud or not paid the premium; when there are not enough employees covered under the group plan to meet the participation requirement of the insurance company; or when the insurance company discontinues selling health insurance.

## **Individual Coverage**

### ***What about individual health insurance coverage?***

LB 862 does not require insurance companies to issue individual insurance policies to every person who applies for one.

Insurers may still reject applications for individual policies. However, a person may purchase an individual major medical insurance policy from the Nebraska Comprehensive Health Insurance Pool (CHIP). CHIP is a non-profit entity created by state law that provides individual health insurance to persons who are medically uninsurable.

CHIP will issue a CHIP insurance policy, without any preexisting condition exclusion, to persons who: (1) have had 18 months of prior creditable coverage under a group, governmental, or church plan; (2) are not eligible for Medicare due to age or Medicaid or have other health insurance; (3) did not