

TITLE 13 INSURANCE
CHAPTER 10 HEALTH INSURANCE
PART 3 MINIMUM STANDARDS FOR SHORT-TERM PLANS

13.10.3.1 ISSUING AGENCY: Office of Superintendent of Insurance.
[13.10.3.1 NMAC - N, 10/01/2020]

13.10.3.2 SCOPE: This rule applies to every health insurer who offers or issues a short-term plan to a resident of New Mexico.
[13.10.3.2 NMAC - N, 10/01/2020]

13.10.3.3 STATUTORY AUTHORITY: Section 59A-23G-1 et seq. NMSA 1978.
[13.10.3.3 NMAC - N, 10/01/2020]

13.10.3.4 DURATION: Permanent.
[13.10.3.4 NMAC - N, 10/01/2020]

13.10.3.5 OBJECTIVE: Establish regulatory requirements for short-term health benefit plans. The rule will standardize and simplify the terms and coverages, facilitate public understanding and comparison of coverage, and prohibit provisions that may be misleading or confusing in connection with such plans.
[13.10.3.5 NMAC - N, 10/01/2020]

13.10.3.6 EFFECTIVE DATE: October 1, 2020, unless a later date is cited at the end of a section.
[13.10.3.6 NMAC - N, 10/01/2020]

13.10.3.7 DEFINITIONS:
A. The definitions in Section 59A-23G-2 NMSA 1978 apply to this rule.
B. Unless inconsistent with a term defined in this rule, or the usage of a term in this rule, the definitions in 13.10.29 NMAC apply.
[13.10.3.7 NMAC – N, 10/01/2020]

13.10.3.8 GENERAL REQUIREMENTS:
A. Duration and non-renewability. The term of a short-term plan shall not exceed three months and shall not be extendable or renewable. Continuation and conversion rights of short-term plan dependents extend only to the original termination date of the policy.
B. When issuance prohibited. A short-term plan shall not be issued to an individual, if that person was enrolled in any short-term plan that provided the same or similar coverage during the preceding 12 months.
C. Guaranteed issue. A short-term plan shall be guaranteed issue to eligible applicants without regard to health status or any preexisting condition(s).
D. Cancellation and rescission. A short-term plan shall not be cancelled or rescinded except as provided herein:
 (1) A short-term plan shall not be rescinded except in the case of intentional misrepresentation, concealment or fraud by the insured or covered person.
 (2) A short-term plan shall not be canceled except:
 (a) as the result of change to or implementation of federal or state laws that no longer permit the continued offering of the coverage; or
 (b) due to the covered person's:
 (i) nonpayment of premium;
 (ii) violation of published policies of the carrier approved by the superintendent;
 (iii) fraudulent acts or material misrepresentation; or
 (iv) material breach of the terms of the plan.
 (c) Nothing in this section shall be construed to provide a covered person with any benefits they would not otherwise be entitled to under a short-term plan.
 (3) Notice required.

(a) When a short-term plan is cancelled for nonpayment of premium, the insurer shall notify the covered person in writing ten days prior to the cancellation date that the plan will be canceled, unless payment is made prior to the cancellation date.

(b) When cancellation or rescission is for any other authorized reason, the insurer shall notify the covered person in writing 20 days prior to the cancellation or rescission date, or the expiration date of the short-term plan, whichever occurs first. An insurer may provide less than 20 days notice only if the remaining duration of the plan is less than 20 days. In such case, notice shall be provided no later than 10 days prior to the cancellation or rescission date or the expiration date of the plan, whichever occurs first. The notice shall specifically state the reason(s) for the cancellation or rescission.

(c) A written notice required by this subsection shall be printed in 12 point or larger font, and phrased in simple language.

E. Prohibition against pre-existing condition exclusion. A carrier shall not exclude coverage of a benefit covered under a short-term plan due to any preexisting condition(s) or other conditions disclosed on the application of coverage.

F. Waiting periods. A carrier shall not impose a waiting period for a benefit covered under a short-term plan.

[13.10.3.8 NMAC - N, 10/01/2020]

13.10.3.9 MANDATORY DISCLOSURES

A. Disclosure Required. A short-term plan shall not be offered or issued without providing the prospective insured applicant a disclosure in the form and with the content specified in this section.

B. Disclosure format. The standard disclosure shall be displayed prominently in the plan and in the plan application, and shall also be delivered as a separate document to the applicant upon delivery of the application.

C. Delivery of disclosure. The applicant must sign an acknowledgement of receipt of the form.

(1) The carrier shall retain each acknowledged disclosure form for five years. Signed forms shall be available for review by the superintendent upon request.

(2) The standard disclosure form shall not be used until it has been filed with and approved in writing by the superintendent.

(3) The standard disclosure form shall include the following information and shall be presented on the first page of any application for coverage in 12-point or larger font:

THIS IS SHORT-TERM, LIMITED DURATION HEALTH INSURANCE COVERAGE. THIS PLAN ONLY LASTS FOR [Insert Duration] AND IS NONRENEWABLE. THIS COVERAGE IS UNAVAILABLE TO ANY INDIVIDUAL WHO HAS BEEN INSURED BY A SHORT-TERM PLAN WITHIN THE PREVIOUS TWELVE-MONTH PERIOD.

THIS PLAN MAY HAVE DOLLAR LIMITATIONS ON BENEFITS.

THIS COVERAGE DOES NOT COMPLY WITH ALL AFFORDABLE CARE ACT REQUIREMENTS. TO SEE IF YOU QUALIFY FOR FINANCIAL ASSISTANCE AND ENROLL IN AFFORDABLE CARE ACT COVERAGE VISIT WWW.BEWELLMN.COM. YOU MAY QUALIFY FOR A SPECIAL ENROLLMENT PERIOD IF YOU HAVE RECENTLY LOST COVERAGE.

[13.10.3.9 NMAC - N, 10/01/2020]

13.10.3.10 COMPLIANCE FILING REQUIREMENTS:

A. Qualified health plan standard requirements. A short-term plan is subject to the same rate, form, and compliance filings as qualified health plans.

B. Network access plan. An insurer who offers a short-term plan shall file a network access plan(s) in SERFF for review and approval by the superintendent annually on October 1.

[13.10.3.11 NMAC - N, 10/01/2020]

13.10.3.11 PENALTIES: In addition to any applicable suspension, revocation or refusal to continue any certificate of authority or license under the Insurance Code, the superintendent may impose a penalty for any violation of this rule in accordance with Sections 59A-1-18 and 59A-46-25 NMSA 1978.

[13.10.3.10 NMAC - N, 10/01/2020]

13.10.3.12 SEVERABILITY: If any section of this rule, or the applicability of any section to any person or circumstance, is for any reason held invalid by a court of competent jurisdiction, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.
[13.10.3.11 NMAC - N, 10/01/2020]

History of 13.10.3 NMAC: [RESERVED]