

DEPARTMENT OF INSURANCE**Legal Division**

45 Fremont Street, 24th Floor
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**Guidance 2244:1**

Pursuant to Assembly Bill 2244 (Chapter 656, Statutes 2010), the California Department of Insurance (CDI) issues the following guidance regarding compliance. Further guidance may be forthcoming in the future.

Date: December ____, 2010

1. The CDI interprets California Insurance Code §10198.7(c)(2) to have omitted the word “not” in the second line before the word “grandfathered.” Accordingly, CDI reads California Insurance Code §10198.7(c)(2) as follows:

Notwithstanding subdivision (b), a health benefit plan for individual coverage that is not a grandfathered plan within the meaning of Section 1251 of the federal Patient Protection and Affordable Care Act (Public Law 111-148) shall not impose any preexisting condition provision upon any child under 19 years of age.

2. Regardless of the time of enrollment, insurers issuing grandfathered and non-grandfathered group plans and non-grandfathered individual policies shall not impose any pre-existing condition provision on any child under 19 years of age.
3. Regardless of the time of enrollment, on and after January 1, 2011, every insurer that, as of January 1, 2011, writes individual health insurance must offer coverage to children on every non-grandfathered individual policy that it sells.
4. The initial Open Enrollment Period (OEP) for children to be covered on non-grandfathered individual policies is January 1, 2011 to March 1, 2011, inclusive. Each subsequent OEP is specific to the child and is the full calendar month of the child’s birth date each year. There can be several different OEPs on a single non-grandfathered individual policy.
5. The Late Enrollment Period (LEP) for a child who is not born in California is 63 days from the date the child became a resident of California.
6. The LEP for a newborn child who is born in California and whose parents did not enroll the child in a health benefit plan during the month of his/her birth is 63 days from the last day of the month in which the child was born. Every year thereafter, the child’s OEP is his/her birthday month.

7. During an OEP or LEP, an insurer may not charge for any child a rate due to health status that is more than two times the standard risk rate for a child.
8. Outside of an OEP or LEP, an insurer may charge for a child a rate more than two times the standard risk rate based on that child's health status in accordance with California and federal law.
9. If an insurer charges more than two times the standard risk rate for health coverage for a child, the insurer must reduce the rate to no more than two times the standard risk rate, as of the next OEP for that child. The insurer may require that the child apply for such a rate reduction at the next OEP as a condition of reducing the rate. If the insurer so requires, the insurer must provide notification of this requirement at the commencement of the coverage, and again thirty days prior to the commencement of the next OEP and each subsequent OEP until the child applies for such rate reduction. The insurer must also provide the insured with instructions on how to apply for a rate reduction.
10. If an insurer charges a surcharge, pursuant to California Insurance Code §10954(b)(2), the insurer must notify the insured, at the time that the surcharge is imposed, that the surcharge will be discontinued twelve months after the effective date of the child's coverage. An insurer must discontinue such surcharge at the appropriate time with no action required from the insured.
11. The notice required in CIC §10954(c), as well as the notice and instructions required in paragraphs 9 and 10 above, shall be prominently displayed in bold-faced (minimum 12 point) type and shall include the insurer's contact information.

For questions regarding this guidance, please contact Leslie Tick at leslie.tick@insurance.ca.gov.