

## **EMERGENCY RULE 102**

### **OPEN ENROLLMENT AND ENROLLMENT FOLLOWING A QUALIFYING EVENT FOR CHILD-ONLY INDIVIDUAL POLICIES**

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#### **Section 1. Authority**

This Emergency Rule is issued based upon the authority granted the Arkansas Insurance Commissioner (“Commissioner”) under Section One (1) (d) of Act 269 of 2011 by the Arkansas State Legislature, “An Act To Require Child-Only Individual Policies,” (hereafter, the “Child-Only Law”), Ark. Code Ann. §§ 23-61-108, 23-61-103(a) and 23-61-103(b) for the effective regulation of the Child-Only Law. This Emergency Rule is also issued based upon the authority of the Commissioner to engage in rulemaking under the Arkansas Administrative Procedures Act, §§ 25-15-201, et seq., and, specifically the Commissioner’s authority to issue and adopt an Emergency Rule under Ark. Code Ann. § 25-15-204(b) and Ark. Code Ann. § 25-15-204(e)(2) if the Commissioner finds that imminent peril to the public health, safety, or welfare requires adoption of an Emergency Rule.

#### **Section 2. Statement of Emergency**

In light of the recent enactment of the Child-Only Law under an emergency clause establishing the effective date of this Act for March 15, 2011, the Commissioner finds that a public emergency exists requiring the immediate adoption of an Emergency Rule to help implement and clarify provisions and requirements under the Child-Only Law.

#### **Section 3. Scope**

This Emergency Rule shall apply to all insurers required to offer child-only individual policies during an open enrollment period as defined and provided for under the Child-Only Law. Unless otherwise defined in this Rule, the terms or phrases referred to in this Rule shall mean those terms or phrases defined under Section One (1) of the Child-Only Law. For purposes of this Rule, "child-only individual policies" or “child-only individual policy” shall mean renewable individual health insurance coverage (as defined in 42 U.S.C. 300gg-91) issued with

an effective date on or after September 23, 2010, which provides coverage to an individual under the age of Nineteen (19). This shall not include individual health insurance coverage that covers children under age Nineteen (19) as dependents.

#### **Section 4. Purpose**

The purpose of this Emergency Rule is to help implement the requirements under the Child-Only Law.

#### **Section 5. Open Enrollment & Qualifying Event Standards**

(a) **Open Enrollment.** Beginning on October 1, 2011, an insurer shall establish and administer an open enrollment period each year from October 1 until October 31 for the purpose of offering a child-only individual policy to each qualified individual. During the open enrollment period, an insurer shall accept a completed application to insure a qualified individual for a child-only individual policy on a guaranteed-issue basis without any limitations or exclusions of policy benefits based upon the applicant's health status. An application is not completed unless and until the applicant has supplied medical records requested by the insurer in order to underwrite the coverage.

(b) **Qualifying Event for Loss of Employer-Sponsored Health Insurance or Involuntary Loss of Other Existing Health Insurance.** An insurer shall accept an application to insure a qualified individual for a child-only individual policy as long as it is complete and submitted within thirty (30) days upon the occurrence of a "qualifying event" on a guaranteed-issue basis without any limitations or exclusions of policy benefits based upon the applicant's health status as provided in Section One (1)(a)(6) of the Child-Only Law. The insurer shall have forty-five (45) days from the date it accepts the completed application to review the application for purposes of underwriting and to issue a policy. An application is not completed unless and until the applicant has supplied medical records requested by the insurer in order to underwrite the coverage.

(1) A "qualifying event" may occur at any time of the year after October 31, 2011 if it meets the requirements of a "qualifying event" under this Rule or the Child-Only Law.

(2) The phrase, "loss of employer-sponsored health insurance," as used in Section One (1)(a)(6) of the Child-Only Law means that an insured or enrollee has lost employer-sponsored health insurance coverage because the employer has ceased providing the health insurance or the insured or enrollee has lost health insurance coverage with the employer because of termination of employment for any reason other than fraud, misrepresentation, or failure to pay premium.

(c) **First Effective Date of Qualifying Event Participation.** To provide insurers with a reasonable amount of time to establish rates or forms to comply with the Child-Only Law and this Rule, the first effective date for applicants to qualify for a child-only individual policy under a "qualifying event" shall be after October 31, 2011.

(d) Notice of the open enrollment opportunity and open enrollment dates for new applicants, as well as the opportunity to enroll due to a Qualifying Event, must be displayed prominently on the carrier's web site throughout the year.

(e) Coverage resulting from complete applications received during the open enrollment period shall become effective no later than January 1 following the open enrollment during which the application is received.

(f) Prohibited Practices. To ensure a parent cannot temporarily obtain family coverage at any point in the year only to subsequently drop coverage to make the child a child only subscriber, such actions by the parent shall not constitute an “involuntary loss of other existing insurance” and therefore do not constitute a “qualifying event” under Section (1)(a)(6) of the Child-Only Law.

## **Section 6. Eligibility Requirements For Temporary CHIP Coverage**

As provided in the Child-Only Law, until September 30, 2011, a child under the age of nineteen (19) years who meets the requirements of eligibility under temporarily added to subsection (a)(1) of Ark. Code Ann. § 23-79-509, as addressed by Section Two (2) of the Child-Only Law, may qualify for an individual policy issued by the Arkansas Comprehensive Health Insurance Pool (“CHIP”), if:

(a) There is a refusal by an insurer to issue individual health insurance coverage to the child under nineteen (19); and

(b) The child is not eligible for or enrolled in coverage under a group health plan, Medicare or Medicaid (including either ARKids A or B under the ARKids First Program) and otherwise meets residency and other minimum criteria for eligibility under the CHIP program.

The refusal by an insurer to issue individual health insurance coverage to a child means that the child is unable to obtain individual health insurance coverage from an insurer, either as a policyholder or as a dependent, in an individual health insurance policy or group health insurance policy.”

## **Section 7. Effective Date**

This Emergency Rule shall remain in effect one hundred and twenty (120) days from the date it is signed by the Commissioner unless sooner replaced with a permanent Rule adopted by the Commissioner after public notice and hearing. If adopted as a permanent final Rule, this Rule shall remain in effect until January 1, 2014.

(signed by Jay Bradford)

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JAY BRADFORD  
INSURANCE COMMISSIONER

April 11, 2011

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DATE