La Cámara de Comercio de Puerto Rico
y su Comité de Salud presentan:

Planes de Salud para Individuos y Empresas Pequeñas
Puerto Rico

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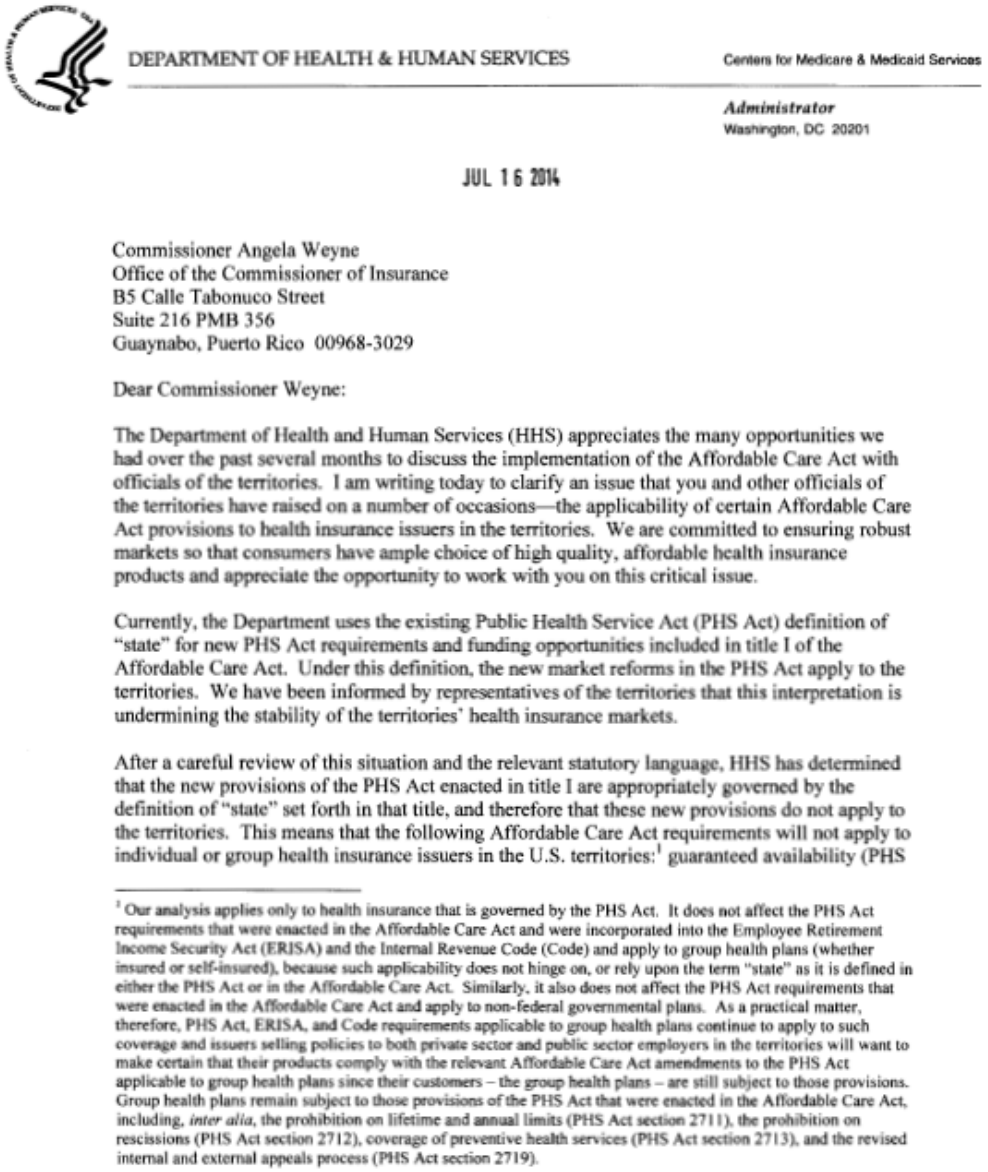
Qinetix Group



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

JUL 16 2014

Commissioner Angela Weyne
Office of the Commissioner of Insurance
B5 Calle Tabonuco Street
Suite 216 PMB 356
Guaynabo, Puerto Rico 00968-3029

Dear Commissioner Weyne:

The Department of Health and Human Services (HHS) appreciates the many opportunities we had over the past several months to discuss the implementation of the Affordable Care Act with officials of the territories. I am writing today to clarify an issue that you and other officials of the territories have raised on a number of occasions—the applicability of certain Affordable Care Act provisions to health insurance issuers in the territories. We are committed to ensuring robust markets so that consumers have ample choice of high quality, affordable health insurance products and appreciate the opportunity to work with you on this critical issue.

Currently, the Department uses the existing Public Health Service Act (PHS Act) definition of "state" for new PHS Act requirements and funding opportunities included in title I of the Affordable Care Act. Under this definition, the new market reforms in the PHS Act apply to the territories. We have been informed by representatives of the territories that this interpretation is undermining the stability of the territories' health insurance markets.

After a careful review of this situation and the relevant statutory language, HHS has determined that the new provisions of the PHS Act enacted in title I are appropriately governed by the definition of "state" set forth in that title, and therefore that these new provisions do not apply to the territories. This means that the following Affordable Care Act requirements will not apply to individual or group health insurance issuers in the U.S. territories:[1] guaranteed availability (PHS

[1] Our analysis applies only to health insurance that is governed by the PHS Act. It does not affect the PHS Act requirements that were enacted in the Affordable Care Act and were incorporated into the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (Code) and apply to group health plans (whether insured or self-insured), because such applicability does not hinge on, or rely upon the term "state" as it is defined in either the PHS Act or in the Affordable Care Act. Similarly, it also does not affect the PHS Act requirements that were enacted in the Affordable Care Act and apply to non-federal governmental plans. As a practical matter, therefore, PHS Act, ERISA, and Code requirements applicable to group health plans continue to apply to such coverage and issuers selling policies to both private sector and public sector employers in the territories will want to make certain that their products comply with the relevant Affordable Care Act amendments to the PHS Act applicable to group health plans since their customers – the group health plans – are still subject to those provisions. Group health plans remain subject to those provisions of the PHS Act that were enacted in the Affordable Care Act, including, *inter alia*, the prohibition on lifetime and annual limits (PHS Act section 2711), the prohibition on rescissions (PHS Act section 2712), coverage of preventive health services (PHS Act section 2713), and the revised internal and external appeals process (PHS Act section 2719).

Por qué hablamos de Obamacare y Trumpcare?

- El 16 de julio de 2014 el "Department of Health and Human Services (HHS) emitió una carta en donde se eliminó a Puerto Rico y otros territorios de EEUU de **seis (6) requerimientos medulares** del Obamacare.
- Sin embargo, estos mismos requerimientos del Obamacare fueron adoptadas por nuestro Código de Seguros de Salud **un año antes** de la emisión de esta carta.

6 Elementos Claves ahora bajo Control Local

After a careful review of this situation and the relevant statutory language, HHS has determined that the new provisions of the PHS Act enacted in title I are appropriately governed by the definition of "state" set forth in that title, and therefore that these new provisions do not apply to the territories. This means that the following Affordable Care Act requirements will not apply to individual or group health insurance issuers in the U.S. territories:[1] guaranteed availability (PHS Act section 2702), community rating (PHS Act section 2701), single risk pool (Affordable Care Act section 1312(c)), rate review (PHS Act section 2794), medical loss ratio (PHS Act section 2718), and essential health benefits (PHS Act section 2707). Specifically, under this interpretation, the definition of "state" set forth in the PHS Act will apply only to PHS Act requirements in place prior to the enactment of the Affordable Care Act, or subsequently enacted in legislation that does not include a separate definition of "state" (as the Affordable Care Act does).

Disposiciones de ACA, adoptadas por nuestro Código de Seguros de Salud, que más impacto tienen en el costo del plan médico

- No permite la selección del riesgo a ser asegurado (*Guaranteed Availability*)
- Para el segmento Individual y PYMES, toda experiencia se combina en el mismo *pool* y con la misma estructura de tarifas por edad (*Community Rating / Single Risk Pool*)
- Establece un mínimo de beneficios a cubrir sin límites monetarios (*Essential Health Benefits*)
- Establece un margen máximo de ganancia para la aseguradora (*Minimum MLRs*)
- Establece un máximo de desembolso personal o responsabilidad del asegurado “Maximum Out Of Pocket” (MOOP) para los EHB (*Essential Health Benefits*)

Puerto Rico no adoptó muchas de las medidas del Obamacare que hubiesen ayudado a garantizar mayor accesibilidad y mejor cubierta.

- Mandato Patronal
- Mandato Individual (*eliminado por la Reforma Contributiva promovida por el Pres. Trump*)
- Subsidios de Prima para Pago Directo
- Centros de Intercambios para adquirir seguros médicos (Marketplace/Exchanges)

El Futuro está en nuestras manos

¿Cómo podemos lograr un mejor cuidado de la salud en nuestra población a la vez que logramos hacer el plan médico mas accesible?

1. Incentivando que toda la población (no solo la necesitada) tenga una cubierta de salud
   a. Marketplace
   b. Incentivos contributivos para los patronos que ofrezcan cubierta médica a sus empleados.
2. Utilizando bases comunitarias para los servicios de cernimiento y salud preventiva. (Farmacias de la Comunidad)
3. Enmiendas al Código de Seguros de Salud

Enmiendas al Código de Seguros de Salud Ley 43 del 2018

- Los planes médicos de asociaciones bona fides eran tratados como planes individuales bajo el Capítulo 10 del Código de Seguros de Salud.
- Reconociendo que la adquisición de planes médicos fuera de un grupo, en el mercado Individual, no es una alternativa accesible para muchas personas y que el El “Affordable Care Act” (ACA) no se ajusta a las particularidades de los planes médicos de asociaciones bona fides; se aprueba la Ley 43 del 2018.

Enmiendas al Código de Seguros de Salud Ley 43 del 2018

La Ley 43 del 2018 enmienda el Código de Seguros de Salud con el propósito de:

1. Restituir la disponibilidad de planes médicos grupales de Asociaciones Bona Fides.
2. Ampliar acceso de cubierta a los grupos profesionales, empresarios y patronos privados de pequeños, medianos y grandes empresas.
3. Establecer los requisitos para el ofrecimiento de estos planes.

Otras posibles enmiendas…

1. Manejo efectivo de la cubierta de medicamentos especializados
2. Reformular el “MOOP” para excluir los medicamentos especializados y permitir el subsidio de la industria farmacéutica para crear mayor acceso a estos medicamentos
3. Establecer un mecanismo para diluir el costo de las reclamaciones catastróficas (medicamentos especializados) en un universo mayor (Reaseguro Mandatorio de Medicamentos Especializados)

Gracias

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