



INSURANCE COMMISSIONER
State of Oklahoma

BULLETIN NO. 2016-01

TO: Insurers Writing Small Group Health Insurance in Oklahoma

RE: Small Group Definition, Correction of Previous Guidance

FROM: Oklahoma Insurance Department

DATE: February 17, 2016

In 1998, the Department published guidance concerning the status of sole proprietors under the Oklahoma Small Employer Health Insurance Reform Act (36 O.S. §§ 6511-6529 ("Reform Act")). The Department directed companies, writing small group health insurance in Oklahoma, as follows:

"We have been advised that insurers are not permitting married individuals who are in business together to enroll for small group coverage. This practice would be in direct violation of Title 36 O.S. § 6512, which defines "eligible employee" as a sole proprietor, and a partner of a partnership. A husband/wife business would qualify for enrollment under this definition, as would a business that employs relatives, regardless of the relationship of those individuals." (Guidance issued March 10, 1998)

As a result of the above "guidance," insurers have deemed sole proprietors, having no other employees, to be eligible for small group insurance.

Today, as a result of changes in applicable Federal Law, we are again receiving questions about the composition of a small group under the Reform Act.

Guidance issued March 10, 1998, is hereby withdrawn and replaced by the following:

Guidance: Sole Proprietor, Small Group Definition Under the ACA

A sole proprietor business (husband/wife) without any common law employees (i.e. those employees without an ownership interest) does not meet the definition of small group as set forth in the Public Health Service Act ("PHSA") and is not eligible for group coverage in either the SHOP or off-exchange marketplace.

This guidance permits a reconciliation of state and federal law governing the treatment of sole proprietor businesses by insurers with respect to new placement of coverage for these entities. Existing sole proprietor groups issued under Title 36 O.S. § 6512 are permitted to keep their coverage and insurers may not non-renew coverage based solely upon this Bulletin.

Questions or comments applicable to this bulletin should be directed to Mike Rhoads (Mike.Rhoads@oid.ok.gov) or Gordon Amini (Gordon.Amini@oid.ok.gov), Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th, Suite 100, Oklahoma City, OK 73112.

The Oklahoma Insurance Department encourages readers of this notice to periodically check the Department's web site <http://www.ok.gov/oid/> for news and updates to Bulletins and other relevant material.