

11 NCAC 12 .1307 GUARANTEED ISSUE AND RENEWAL

- (a) No carrier shall decline an application for coverage under the statutory plans. A carrier may continue to issue health benefit plans other than the statutory plans.
- (b) If an eligible employee commits fraud or makes material misrepresentation to a carrier, the carrier may rescind coverage for that employee. If the small employer commits fraud or makes a material misrepresentation to a carrier, the carrier may rescind coverage for that entire small employer group.
- (c) The late enrollee provision in G.S. 58-50-130(a)(4) applies to all health benefit plans subject to the Act.
- (d) Any health benefit plan covering an employer that by definition becomes a small employer is not subject to the Act until the next anniversary date of that plan.
- (e) Any health benefit plan covering a small employer that by definition loses its status as a small employer is subject to the Act until the next anniversary date of that plan. At that time, the carrier shall determine if the employer is by definition a small employer. If the employer is not a small employer, the carrier may terminate the plan. If the carrier does not terminate the plan, the carrier shall amend the plan with riders or endorsements to comply with requirements of statutes and rules that were not reflected in the plan before the anniversary date.
- (f) Before a plan anniversary date, a small employer may request that coverage be changed from one statutory plan to another statutory plan.
- (g) Previously declined individuals are not late enrollees unless they fail to enroll during their initial enrollment periods.
- (h) On the next health benefit plan anniversary date that falls on or after August 14, 1992, a carrier shall remove all exclusionary riders or conditional modifications on any health benefit plan that is subject to the Act.
- (i) A carrier may base termination on nonpayment of premium; and shall apply termination decisions uniformly to all of the carrier's small employer group business.
- (j) A carrier is not required to issue a statutory plan to a small employer if within the prior 12 months the carrier terminated a health benefit plan of the small employer because the employer:
- (1) failed to pay the premium;
 - (2) committed fraud or materially misrepresented information necessary to determine the group size, group participation rate, or the group premium rate; or
 - (3) failed to materially comply with a health benefit plan provision, including carrier requirements for employee group premium contributions.
- (k) All health benefit plans subject to the Act that were delivered, issued for delivery, renewed, or continued in this State or covering persons residing in this State on or after January 1, 1992, must be guaranteed renewable, except for the reasons listed in G.S. 58-50-130(a)(3).
- (l) Each carrier shall provide an open enrollment period for a new entrant to be added to the health benefit plan. The open enrollment period shall be at least 30 days in length. A new entrant who is a new eligible employee shall be added to the plan within 90 days of his or her employment. A new entrant who is a dependent shall have an open enrollment period of at least 30 days, beginning on the date he or she becomes a dependent of an eligible employee, if the eligible employee has coverage. If a new entrant does not apply for coverage by the end of the open enrollment period, he or she is a late enrollee unless he or she meets the requirements of G.S. 58-50-110(14)a, b, or c.

History Note: *Authority* G.S. 58-2-40(1); 58-50-105; 58-50-125(d); 58-50-125(e)(1); 58-50-130(a); 58-50-130(h);
 Temporary Adoption Eff. December 21, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
 Eff. April 1, 1993;
 Temporary Amendment Eff. October 11, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
 Amended Eff. February 1, 1994;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest *Eff.* May 1, 2018.