

806 KAR 12:060. Health insurance replacement.

RELATES TO: KRS 304.14-120

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Executive Director of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation safeguards the interests of persons covered under health insurance including indemnity insurance who consider replacing their insurance by making available to them information regarding replacement and thereby reducing the opportunity for misrepresentation and other unfair practices and methods of competition in the insurance business.

Section 1. This administrative regulation shall apply to the solicitation of health insurance covering residents of this state issued by insurance corporations, fraternal benefit societies or nonprofit service plans in accordance with KRS 304.14-120.

Section 2. This administrative regulation shall not apply to the solicitation of the following accident and sickness insurance:

- (1) Group or blanket;
- (2) Accident only;
- (3) Single premium nonrenewable;
- (4) Nonprofit dental care;
- (5) Nonprofit prepaid optometric service;
- (6) Under which dental expenses only, prescription expenses only, vision care expenses only or blood service expenses only are covered;
- (7) Conversion to another individual or family policy in the same insurer with continuous coverage;
- (8) Conversion to an individual or family policy to replace group, blanket coverage in the same insurer;
- (9) Change to a Medicare supplement policy which covers preexisting conditions, without any limitation, to replace a basic hospital expense, basic medical expense, basic surgical expense, or major medical expense policy.

Section 3. Definitions.

- (1) Replacement is any transaction wherein new health insurance is to be purchased, and it is known to the agent or company at the time of application that as part of the transaction, existing health insurance has been or is to be lapsed or the benefits thereof substantially reduced.
- (2) Continuous coverage means that the benefits are not less than the benefits under the previous policy, and the policy also covers loss resulting from injury sustained or sickness contracted while coverage was in force under the previous policy to the extent such loss is not covered under any extended benefit or similar provision of the previous policy.
- (3) Group type coverage is as defined in KRS 304.18-020.
- (4) Direct response insurance is insurance issued to an applicant who has himself completed the application and forwarded it directly to the insurer in response to a solicitation coming into his possession by any means of mass communication.

Section 4. An application form for insurance subject to this administrative regulation shall contain a question to elicit information as to whether the insurance to be issued is to replace any insurance presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

Section 5.

(1) An agent soliciting the sale of insurance shall, upon determining that the sale would involve replacement, furnish to the applicant, at the time of taking the application, the notice described in Section 6 of this administrative regulation to be signed by the applicant.

(2) An insurer soliciting direct response insurance shall, upon determining that the sale would involve replacement, furnish to the applicant, before the policy is issued, the notice described in Section 6 of this administrative regulation to be signed by the applicant.

(3) A copy of such notice shall be left with or retained by the applicant and a signed copy shall be retained by the insurer.

Section 6. The form for notice required by Section 5 of this administrative regulation is filed by reference as Appendix A. Copies may be obtained from the Office of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601.

Section 7. A violation of this administrative regulation shall be considered to be a misrepresentation for the purpose of inducing a person to purchase insurance. A person guilty of such violation shall be subject to KRS 304.9-440(1).

(3 Ky.R. 277; eff. 10-6-76; TAm eff. 8-9-2007; Crt eff. 2-26-2020.)