

NEW MEXICO PARTIALLY LIFTS MORATORIUM ON APPROVAL OF ADVERTISING FOR CERTAIN EXCEPTED BENEFIT PRODUCTS

There has been a flurry of bulletins from the New Mexico superintendent of insurance this year regarding the moratorium on filing forms and advertising of “excepted benefit” products. Yet another bulletin was recently published which contains good news for the industry regarding the filing of advertising.

How We Got Here

- Back in June 2019, New Mexico passed a new law dealing with short term health plans and excepted benefit products. This law called for additional guidance in the form of a regulation covering these products.
- In February 2020, the superintendent issued a moratorium on approval of all excepted benefit filings until the new regulation was completed and promulgated.
- The new regulation, [13.10.34 NMAC](#), was effective on October 1, 2020 for new business, but it *does not apply to dental, vision or disability excepted benefit products*. It applies to coverage-only accident insurance, coverage-only specified disease or illness, hospital indemnity, other fixed indemnity insurance, and Champus/Tricare supplemental plans that contain these coverages. See my [article](#) published in early October 2020 outlining some of the excepted benefit requirements under the new regulation.
- Unfortunately, the filing moratorium continues in place for new dental, vision and disability excepted benefit products. It is anticipated a rule may be promulgated for these products in 2021 that may remedy the situation.

The Good News

The superintendent changed his position and now allows insurers to request approval of advertisements of previously approved excepted benefit plans. Although the moratorium on filing new policy forms is still in place, insurers who continue to market those previously approved dental, vision and disability excepted benefit products can update and file their advertising. This change of position is outlined in [Bulletin 2020-20](#) and is effective on October 15, 2020.

Bulletins

To help you keep track of all the bulletins released by the superintendent this year dealing with excepted benefits, here is a list:

1. [Bulletin 2020-003](#), February 25, 2020 – Moratorium on Approval of Excepted Benefit Filings until Promulgation and Application of Rules.
2. [Bulletin 2020-017](#), October 1, 2020 – Partial Lifting of Filing Moratorium Imposed in [Bulletin 2020-003](#).

3. [Bulletin 2020-018](#), October 1, 2020 - Recission of Bulletin 2019-006 (Group Excepted Benefit Health Policy Annual Certification and Informational Policy Filing).
4. [Bulletin 2020-19](#), October 1, 2020 - Out-of-State Group Excepted Benefits Rate and Form Filing.
5. [Bulletin 2020-20](#), October 15, 2020 – Partial Lifting of Advertising Filing Moratorium Imposed in Bulletin 2020-003.

Next Steps – Advertising Filing

Because of the superintendent’s change in position, carriers can now move forward and update their advertisements of previously approved dental, vision, and disability excepted benefit products.

[First Consulting](#) has the expertise to assist you with confirming compliance of your advertising and filing the advertising for approval with the state. We are an industry leader in advertising compliance. Contact us today to learn more on how we can help with your advertising and filing needs.



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Kathy has over 30 years of insurance compliance experience in product development, filings, legal research, advertising review, and compliance monitoring of state and federal laws. She has worked with all types of life and health products, including individual and group.