

## **NEW MEXICO LIFTS APPROVAL MORATORIUM ON EXCEPTED BENEFIT PRODUCTS**

After eight months, the New Mexico Office of Superintendent of Insurance (OSI) has lifted its temporary moratorium on approvals of “excepted benefit” products because of a new rule that took effect on October 1, 2020. Lifting this moratorium will once again allow insurers to pursue approval of their excepted benefit products.

### **How We Got Here**

Back in June 2019, New Mexico passed the “Short-Term Health Plan and Excepted Benefit Act” which called for a rule to be adopted putting guidance in place for these products. The insurance superintendent instituted a form approval moratorium in February 2020 to make certain that carriers and producers were not selling excepted benefit products as substitutes for major medical plans, and to await the completion of the rule to give additional guidance.

### **What You Need To Know**

The [new rule](#) sets forth the standards for Accident Only, Specified Disease or Illness, Hospital Indemnity and Champus/Tricare supplement plans that provide these coverages. This rule is very comprehensive and sets forth many requirements, some of which are:

**Disclosures** - Since excepted benefit insurance products are not major medical and not subject to the protections afforded under the Affordable Care Act (ACA), they can be very confusing for potential insureds to understand. Many specific disclosures in applications, ID cards, replacement forms and direct response solicitations are required. If a carrier or its agent learns that an insured’s major medical coverage has lapsed or was cancelled, a notice must be sent indicating that this policy is not major medical insurance and directing them to the Exchange for insurance options.

**Out-of-State Policies** - This rule applies to a policy issued in New Mexico or issued outside of the state but insuring New Mexico residents. [Bulletin 2020-019](#) was issued on October 1, 2020 to clarify that “... a carrier cannot sell a New Mexico resident excepted benefits under a plan issued to an out-of-state group, unless the plan complies with New Mexico law and has been approved by the superintendent.”

**Benefits** - Minimum benefit amounts, definitions, allowed limitations and exclusions as well as eligible wellness benefits are defined in detail. Medical providers and PPO networks cannot be contracted to provide services or referenced in any policy, insurance card or advertising. The rule addresses coverage of telemedicine, prescription drugs and when an exclusion for pre-existing conditions can be used.

**Rates** - All rates must be filed and approved along with an annual certification that minimum loss ratios are being met. An insurer can segregate New Mexico experience if the aggregate experience from all states does not comply with the New Mexico law.

**Effective Date** - This new rule applies to policies/contracts issued on and after October 1, 2020. It applies to existing policies/contracts no later than October 1, 2021.

### **Next Steps - New Filings**

The good news is that this rule provides the direction to allow insurers to move forward and seek approval of those new products that were previously stuck in limbo. However, this new rule also brings challenges for insurers who must revamp and refile their previously approved products with the OSI prior to the October 1, 2021 deadline.

[First Consulting](#) has the expertise to assist you in drafting and filing new or existing policies that meet the requirements of this New Mexico regulation. Give us a call today to get started.



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