

February 10, 1966

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter 7 (1966)

TO ALL CORPORATIONS DOING BUSINESS UNDER ARTICLE IX-C OF THE N.Y. INSURANCE LAW

The following permissive procedures and restrictions shall be applicable in revising coverage of Article IX-C corporations, responsive to changes occasioned by the Medicare amendments to the Social Security Law. Where in any instance in the implementing of such revisions, a Plan makes provision for the offset of part B benefits of Medicare, or terminates coverage whether or not the insured has elected such part B benefits, the Plan must notify the insured of such action at a time when he has at least thirty days within which to elect the benefits of part B.

1. Policies, riders, endorsements or other forms used with policies may contain references to the Medicare Act or to Medicare or the Medicare Program or similar abbreviated description provided the policy or the form contains a definition of which the following are merely illustrative: "References herein to 'Medicare' are to Public Law 89-97, Title XVIII as amended" or "References herein to 'Medicare' are to Title XVIII of the Social Security Act of 1965 as amended".
2. Policies, riders, endorsements or other forms used to issue or amend individual or family coverage may limit benefit periods by an exclusion or other contractual provision of which the following is illustrative: "This policy does not cover, and no payment will be made on account of any day of hospital confinement, surgical operation or medical service of any kind, with respect to a covered family member after such person becomes eligible for any coverage under Title XVIII of the Social Security Act of 1965 as amended." Changes in existing contracts may be made only where not prohibited by the provisions of such contracts and must be accompanied, where applicable, by a suitable adjustment in the premium.
3. Renewal and termination provisions of individual and family policies may be modified by rider of policies in-force, where not prohibited by the policy, and either by rider or revision of the policy form for new issues by a provision which defines a specified expiry date for coverage, without requiring non-renewal action by the Plan, and still provide coverage for the initial portion of the year during which the insured family member is not eligible for coverage under Medicare.
4. Plans may issue coverage supplemental to Medicare for risk areas not covered by Medicare. Such supplemental coverage may be offered in the form of service benefits or in such other form as may appear suitable.
5. In view of the provision of Section 253 authorizing the Superintendent to approve "other reasons" for non-renewal, eligibility for any coverage under Title XVIII of the Social Security Act of 1965 as amended shall constitute a proper basis either (1) for refusal to renew an individual policy or the coverage of a covered member under a family policy, or (2) for renewal limited to the period between the customary renewal date and the day before the date of eligibility of such policyholder or covered family member for any coverage under Title XVIII of the Social Security Act of 1965 as amended.

6. Providing an appropriate adjustment of premium is made, where applicable, the following are examples of types of Medicare exclusions which may be used in new issues of individual or family policies and, where not prohibited by provisions of the policy, may be added to individual or family policies in-force by means of amendment, endorsement or rider:

"a. Plans may terminate coverage, when the policy permits, on persons eligible for coverage under Medicare, or be permitted to continue the coverage upon condition of excluding Medicare benefits entirely. Such an exclusion may apply either to benefits to the extent for which the insured may be eligible under Part A or Part B or to all expenses which are covered in whole or in part.

"b. Plans may place themselves in the position of an 'excess carrier' by excluding Medicare benefits and by covering only those expenses which are not covered by the Medicare Act, with an appropriate explanation as to coverage or non-coverage of the deductible and coinsurance amounts of the Medicare plan.

"c. Plans may exclude duplication of Medicare benefits and provide supplementary (new) coverage for services not covered by Medicare.

"d. Plans may, in adjusting both existing and future policy coverages, provide for any further changes in coverages necessitated by future changes in Medicare.

"e. Plans shall make clear their intent to cover or not to cover persons who may be eligible for Part B coverage but who do not elect to come under such plan."

7. As a part of the effort to curb the duplication of benefits stemming from the Medicare Program a Plan may, in a manner consistent with law, use any of the following alternatives, providing (1) the policy language permits, (2) the Plan promptly notifies the Superintendent as to the manner in which such alternatives are to be used and the specific policy forms affected by each, and (3) the Plan furnishes the Superintendent with copies of the pertinent notices to policyholders:

"1. Offers of voluntary conversion or amendment, at Plan's discretion, of any policy forms.

"2. Plans may effect non-renewal in those instances wherein the insured elects not to accept the Plan's offer as in the preceding sentence."

8. In view of the provision of Section 253(2) excusing a Plan from the obligation to issue a converted policy to a person no longer within the definition of the family if such person is "covered by similar benefits required by any statute or provided by any welfare plan or program, which together with the converted contract would result in overinsurance or duplication of benefits according to standards on file with the Superintendent of Insurance", eligibility for any coverage under Title XVIII of the Social Security Act of 1965 as amended constitutes a proper overinsurance basis either (1) for refusal to issue a converted policy, or (2) for the issuance of a converted policy limited to the period between the date on which application is made for the converted policy and the day before the date of eligibility for any coverage under Title XVIII of the Social Security Act of 1965 as amended.

9. In view of the provision of Section 253(6) excusing an insurer from the obligation to issue a converted policy covering an employee or member or dependent of an employee or member otherwise eligible if such person is "provided with similar benefits required by any statute or provided by any welfare plan or program, which together with the converted policy would result in overinsurance or duplication of benefits according to standards on file with the Superintendent of Insurance" eligibility for any coverage under Title XVIII of the Social Security Act of 1965 as

amended constitutes a proper overinsurance basis either (1) for refusal to include such eligible person in the converted policy or (2) for the issuance of a converted policy limited, as to such eligible person, to the period between the date on which application is made for the converted policy and the day before the date of eligibility for any coverage under Title XVIII of the Social Security Act of 1965 as amended.

Very truly yours,

[SIGNATURE]

Superintendent of Insurance