

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed
Rules Relating to Health Coverage
Conversion Privileges Upon
Termination

STATEMENT OF NEED AND
REASONABLENESS OF PROPOSED
RULE

Minnesota Statutes Section 62E.09 allows the Commissioner of Commerce to adopt rules pertaining to health insurance policy requirements. Pursuant to that authority Minnesota rules part 2740.1600 was originally adopted and is being amended by the same authority.

Minnesota Rules 2740.1600 subpart 2 contains language which was based upon the requirements of Minnesota Statutes Section 62A.17, subpart 6 which allowed for the termination of conversion rights upon becoming eligible for Medicare. At the time the original rule was adopted this language was incorporated because it reflected the provisions of that statute and several others dealing with conversion rights. As a result of recent contact with the Federal government and primarily with the Health Care Financing Agency, the department was advised that subsequent to the original passage of these statutes various Federal laws and regulations had been enacted which placed these provisions in violation of those laws and regulations.

Accordingly during the 1990 Legislative Session, the ability to terminate conversion and similar rights based upon eligibility for Medicare was repealed in Chapter 403, sections 1, 2, 9 and 10. Accordingly, since the provisions found in this rule are based upon the specific language and requirements of these statutes, and were intended to parallel those provisions, with the repeal of the specific statutory authority upon which the rule was originally based longer present in law the language in the cited rule needs to be removed to conform with the statutory changes.

Small Business Considerations

The rule that is involved in this proceeding involves requirements pertaining to all health insurance policies in the State of Minnesota. Accordingly, whether or not that policy is purchased by a small business or not is impossible to determine when the policy is being approved. Also since the rule provision being repealed is applied across the board to all types of businesses or persons purchasing these policies, the repeal is

equally applicable to all of them. Also the rule effects who has the right to a conversion policy and when that right ends. There is no provision at law or other rationale in regard to these types of policies which would set two standards, one for employees of small businesses and one for employees of larger businesses. Where the legislature has had requests for creating such standards as in the case of what is commonly known as COBRA continuation rights where the Federal government has created such a distinction, the legislature did not create such a distinction and extended those rights which the conversion rights are a variance on, to all employees of all businesses.

Further the repeal of the rule is being generated because of its conflict with Federal requirements and follows an across the boards repeal of similar language in a number of statutes. Once again the legislature did not differentiate in its repeal between the effect upon small or large businesses and accordingly this repeal is consistent with that. Notwithstanding that the Department did comply with provisions of Minnesota Statutes Section 14.115 by considering the impact on small business.

As to Minnesota Statutes Section 14.115, subdivision 2(a), since there are no compliance or reporting requirements involved that would not be applicable in this situation. As to subdivision 2 (b) there are no schedules or deadlines for compliance or reporting so that provision would be inapplicable. As to subdivision 2 (c) there are no compliance or reporting requirements so that provision is inapplicable. Subdivision 2(d) is also not applicable in this particular situation as there are no design or operational standards involved and as to subdivision 2(e) for the reasons stated in the foregoing, that this is a requirement for policy design for all policies in the state, creating exemptions for small businesses in regard to policy design is not appropriate. Also based upon the fact that the previous rule provision conflicted with federal requirements means that it would be impossible to waive the change for small businesses.



OFFICE OF THE COMMISSIONER

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

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7/30/90

September 10, 1990

The Legislative Commission to Review Administrative Rules
Maryanne Hruby, Director
55 State Office Building
St. Paul, Minnesota 55155

Re: Proposed Rules Relating to
Health Coverage Conversion Privileges Upon Termination

Dear Ms. Hruby:

I believe a copy of the Statement of Need and Reasonableness for the Health Coverage Conversion Privileges Upon Termination was forwarded to you, but unfortunately I do not have a file notation or correspondence to that effect. Accordingly I am forwarding an additional copy to you.

Very truly yours,

THOMAS H. BORMAN
Commissioner of Commerce

By:

Richard G. Gomsrud / R.G.
Richard G. Gomsrud
Department Counsel

RGG:jmt