



INFORMATIONAL MEMORANDUM

OIR-11-06M

ISSUED

July 25, 2011

Florida Office of Insurance Regulation

Kevin M. McCarty, Commissioner

ALL LIFE AND HEALTH INSURERS AND HMOs

The purpose of this memorandum is to remind Florida Life and Health insurers and health maintenance organizations (HMOs) of the requirements of Section 627.6699, Florida Statutes, regarding the definition of "Small employer."

Section 627.6699(3)(v), Florida Statutes, provides that "Small employer" means, in connection with a health benefit plan with respect to a calendar year and a plan year, any person, sole proprietor, self-employed individual, independent contractor, firm, corporation, partnership, or association that is actively engaged in business, has its principal place of business in this state, ***employed an average of at least 1 but no more than 50 eligible employees*** on business days during the preceding calendar year the majority of whom were employed in this state, employs at least 1 employee on the first day of the plan year, and is not formed primarily for purposes of purchasing insurance. In determining the number of eligible employees, companies that are an affiliated group as defined in s. 1504(a) of the Internal Revenue Code of 1986, as amended, are considered a single employer. For purposes of this section, a sole proprietor, an independent contractor, or a self-employed individual is considered a small employer only if all of the conditions and criteria established in this section are met.

At this time, Florida law has not been amended. Before 2016, states have the option of defining "small employers" as either those with 100 or fewer employees, or those with 50 or fewer employees. Pursuant to current Federal law, beginning in 2016, small employers will be defined as those with 100 or fewer employees.

Specifically, for the purpose of the National Association of Insurance Commissioners (NAIC) Supplemental Health Blank already filed for calendar year 2010, issuers should have reported on small group using the present definition in section 627.6699(3)(v), Florida Statutes set forth above. If an issuer filed small group as 1-100, the Blank will need to be re-filed. For calendar year reporting in 2011, 2012, 2013, 2014 and 2015, issuers shall report for small group as defined in Florida law, which is presently 1-50 employees.

If you have questions regarding the filing of revised contract forms, please contact Eric Lingswiler, Director of Life and Health Product Review, Florida Office of Insurance Regulation at eric.lingswiler@flor.com or (850) 413-5110.