

Bulletin 2001-2

To: Health Insurers and producers

From: Darla L. Lyon

December 28, 2001

Re: Guarantee issue special exemptions and 2% cap calculations

This bulletin is written to clarify when a carrier achieves an exemption from guaranteed issue requirements. Normally a carrier is exempt in the third year after reaching the 2% cap in each of the prior years pursuant to ARSD 20:06:39:15. That general rule does not apply in a year in which the cap has been raised as has been the case in 2001.

In a year in which the cap has been raised the carrier would have to also meet the raised cap threshold in order to qualify for the third year exemption. So any carrier who met the cap in 2000 must meet the raised cap of 4% in 2001 in order to qualify for the third year exemption.

The other exception to the general rule would occur for a carrier who has qualified for the third year exemption and in that third year the 2% cap is raised to 4%. In that third year the previously exempt carrier would again need to begin issuing to high risk individuals but only until the carrier has reached 2%.

The key to counting which high risk policies count in any given year is the date of issue not the effective date. This is especially critical in situations where the prospective insured has a completed application filed prior to year end but the actual policy is not issued until the following calendar year. Since carriers are required to honor the date of the application pursuant to ARSD 20:06:39:19, the carrier may have an effective date that pre-dates the issue date. Thus, a carrier may issue a policy in 2002 with an effective date in 2001. In this example, the applicable premium pursuant to ARSD 20:06:39:12, twelve months, would count toward the 2002 cap.