

Association of Insurance Compliance Professionals Eligible Groups

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Eligible Group Issues

- Overview
 - What are Eligible Groups
 - Association Group Issues
 - Discretionary groups
 - Group Life vs Group Health
 - Extraterritorial (ET) concerns
 - What are the concerns?

Eligible Group Issues

- Eligible Groups are defined as “permissible groups that may be issued a policy of group health or group life coverage in the state.”
- Each state typically has their own list and definition of what constitutes an eligible group.
- A few states provide no guidelines or restrictions on eligible groups- ex. DC, RI
- This can be good or bad

Eligible Group Issues

- NAIC Model 100 s 4 (Health) & s 565 (Life)
 - (A) Employer or trustees of a fund established by an employer
 - (B) Creditor
 - (C) Labor Union
 - (D) Trust established by ER's or Labor Unions or combined ER & Labor Union
 - (E) Association or Association formed trust
 - (F) Credit Union

Eligible Group Issues

- Other Types of Groups
 - Blanket Groups
 - Financial Institutions
 - Affinity Groups
 - Discretionary Groups- including discretionary group trusts

Blanket Groups

- Blanket Groups
 - Typically health coverages covering a group of persons for a specified hazard or risk. Acceptable blanket groups are:
 1. Common carrier
 2. Employer
 3. College, schools, school districts
 4. Religious, charitable, recreational, education or civic organization
 5. A sports team, camp, or sponsor of them

Blanket Groups

6. Volunteer fire, first aid, civil defense, or other volunteer organization
 7. Newspaper or other publisher Employer
 8. Associations, labor unions
 9. Any other policy issued to cover any other risk or class of risks that, in the discretion of the commissioner, may be properly eligible for blanket accident and sickness insurance
- Some states require that coverage be provided to “all members” or “all classes” of the blanket group.

Blanket Groups (Cond't)

- Each states definition varies and not all states recognize blanket groups.
- Typically there are no certificates required to be issued under blanket policies, except for student business.
- A brochure or Summary of Coverage is provided

Financial Institutions

- Typically a bank or credit union where a term life or AD&D or simple indemnity product is offered to customers of the institution.
- Not all states recognize financial institutions as eligible and would consider them discretionary groups.

Affinity Groups

- Buyers clubs, travel clubs, purchasing organizations, ethnic and multi cultural organizations.
- Unless the group would qualify as eligible group under group health, group life or blanket health then these groups would be considered discretionary groups.

Discretionary Groups

- Groups that do not meet the standard eligible group requirements, which “in the discretion of the commissioner” would be acceptable
- Generally must meet the 3 prong test:
 - (1) The issuance of such group policy is not contrary to the best interest of the public;
 - (2) The issuance of the group policy would result in economies of acquisition or administration; and
 - (3) The benefits are reasonable in relation to the premiums charged.

Association Groups

- Now for the bigger focus these days: Association Groups !
 - Association Groups generally defined as
 - Not controlled by an insurer
 - Seasoning: Been in active existence from anywhere from 1 – 5 years
 - Have a constitution and by laws;
 - Have a minimum number of members (25- 100) at outset
 - A shared or common purpose that is not primarily a business or customer relationship
 - Hold regular meetings (at least annually).

Association Groups

- Collect dues or solicit contributions from members
- Members have voting privileges;
- “Bona fide Associations” 45 CFR 144.03 – related to “group health plans” offered in the “group market” as defined by HIPAA 45 CFR 144.103
 - Has been actively in existence for at least 5 years;
 - Has been formed and maintained in good faith for purposes other than obtaining insurance;
 - Does not condition membership in the Association on any health status related factor relating to an individual (including an employee of an employer or a dependent of an employee);
 - Makes health insurance offered through the Association available to all members regardless of any health status related factor relating such members (or individuals eligible for coverage through a member);
 - Does not make health coverage offered through the Association available other than in connection with a member of the Association;
 - Meets any additional requirements that may be imposed under state law; and
 - Does not condition membership in the Association on any health status related factor.

Association Group

- Non Bona fide Association group is considered doing business in the individual market
 - Per 45 CFR 144.102 (c) Coverage that is provided to associations where membership is not related to employment is considered coverage in the individual market, not group coverage, regardless if it is considered group coverage under state law.

Association Group

- State experiences
 - Submission of association documents:
 - Constitution and by laws
 - Evidence of meetings, voting and minutes
 - Evidence of dues
 - Enrollment materials to prove the membership enrollment is separate from insurance enrollment
 - Brochures listing the benefits of membership to show some common purpose and benefits other than insurance.
 - Website materials

Association Group

- State experiences
 - Things have changed in the past 10 + years. It is not as easy to gain approval of associations.
 - Almost 50% or more of the states have their “red flag antenna” up when requesting approval for an association group.
 - Be aware: the DOI will check websites and will call the phone number on the association materials

Association Group

- State experiences
 - The following states typically will not approve a request to issue to “all eligible associations” in the state and will require association documents for each association:
 - AK, AR, CO, ID, IA, LA, MN, MO, MT, MD, NH, NV, NC, OR, SD, TX, UT, VT, WA, WV
 - The following will accept a “we will tell you later when we have an association in mind”: ID, WV
 - The following states may ask but have been inconsistent in requiring Association documents: CT, IN, OK

Association Group

- State Experiences:
 - Questions on associations tend to be raised more on health product filings, than life, but in general it is the nature of the group that is the issue, not the product.
 - If speed to market is goal- file for one group, hopefully a traditional eligible group, to get the product approved. Go back in later for expansion of group marketing. Some will require a separate form number for different groups: ex: TX

Association Group

- State Experiences:
 - When filing submit as much information as you can. Explain in detail the marketing plan for the group in the transmittal.
 - Don't make the state ask for the info if you know they require it.
 - Be prepared to explain why the group has benefits other than insurance. Provide newsletters, etc .
 - Possible conference call between the DOI and the association group rep and you may help.
 - Associations that don't meet the requirements will be considered a discretionary group

Association Group

- State Experiences:
 - Associations that don't meet the requirements will be considered a discretionary group.
 - If so be prepared to meet the 3 prong test

Eligible Group Issues

- Health vs Life:
 - More scrutiny on health groups vs life groups due to nature of health insurance
 - HIPPA and ACA put more scrutiny on association groups, guarantee issue, guarantee renewability of coverage etc.
 - Blanket groups are more typical for health
 - Financial institutions more typical for AD&D, life and some supplemental products

EXTRATERRITORIAL ISSUES

- What is Extraterritoriality?

The extent to which laws other than those of the “situs” affect the legality, validity, interpretation or operation of a group insurance policy.

EXTRATERRITORIAL ISSUES

- What are the concerns? Insurers must be aware of ET requirements to maintain compliance
- With respect to eligible groups first look to the situs state (where the group policy is issued) to ensure you have an eligible group
- ET authority typically addresses the delivery of the policy forms to residents of the state and the inclusion of mandated benefits of the product.
- However some states are clear they must approve the group first regardless if it is an o-o-state policy: Ex. MD

EXTRATERRITORIAL ISSUES

- How to determine if ET requirements apply?
Depends on:
 - Laws, Regulations, Bulletins, DOI Websites of the policy situs state
 - Laws, regs etc. of the location of the group and individual insured
 - Type of group
 - Type of product and method of marketing
 - Unique industry filing experience

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ELIGIBLE GROUP

QUESTIONS & ANSWERS

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THANK YOU!