

# Arkansas Insurance Department

Asa Hutchinson  
Governor



Allen Kerr  
Commissioner

BULLETIN NO.: 15A-2015

TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, FRATERNAL BENEFIT SOCIETIES, FARMERS' MUTUAL AID ASSOCIATIONS OR COMPANIES, HOSPITAL MEDICAL SERVICE CORPORATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND COMPANY TRADE ASSOCIATIONS AND OTHER INTERESTED PARTIES.

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: DEFINITION OF SMALL EMPLOYER UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)

DATE: DECEMBER 18, 2015

On October 8, 2015, the Arkansas Insurance Department (AID) issued AID Bulletin # 15-2015, entitled "Definition of Small Employer Under the Patient Protection and Affordable Care Act (ACA)." AID Bulletin # 15-2015 was issued in response to federal legislation in the PACE Act ("Protecting Affordable Coverage of Employees Act") which permits a State to maintain its current definition of "small group" in the small group market for ACA subject policies. In this Bulletin, the Department advised it would continue to follow the definition of a small employer as announced in AID Bulletin # 3-2012 which based the small employer size range from Ark. Code Ann. § 23-86-303(34) as having at least two (2) but no more than fifty (50) employees. Current State law at this time, both under Ark. Code Ann. § 23-86-303(34) as well as under § 23-61-802(7)(A) define small employer as having not more than fifty (50) employees.

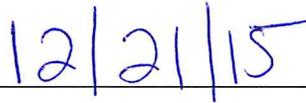
The Department issues this amendment to AID Bulletin # 15-2015 for the purpose of only addressing permitted medical loss ratio allowances. In AID Bulletin # 15-2015, the Department stated that, although a small group issuer would be permitted to follow State law as to the numerical range of employees constituting a small employer, the small group issuer however would be permitted to use a one (1) to one-hundred (100) employees medical loss ratio (MLR) allowance, for purposes of determining the MLR for small group health insurance. Following issuance of AID Bulletin # 15-2015, on October 19, 2015, the Centers for Medicare and Medicaid Services (CMS) issued a publication, "Frequently Asked Questions on the Impact of PACE Act on State Small Group Expansion," addressing MLR allowances for State's adopting to use their own small group definitions for ACA subject small group policies. CMS explained that States which use a 2-50 small group size have to follow the same numerical range of the

small employer definition for purposes of MLR. The Department therefore advises small group issuers that the MLR allowance for ACA subject small group policies will be based on a 2-50 employees number rather than a 1-100 number. At this time, CMS is however permitting a transition year on the MLR range allowance, and therefore, for 2015 MLR, Arkansas small group issuers may include a 51-100 experience in their small group market. For any future year extensions, or additional year transitions by CMS for MLR, the Department advises the issuers that the Department intends to allow for those as published by CMS or as permitted by federal law or rules for ACA subject small group policies, without the need for further amending this Bulletin.

For any questions regarding this Bulletin, please contact Booth Rand at 501-371-2820.



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DATE