

191—71.3(513B) Applicability and scope.

71.3(1) a. Except as provided herein, this chapter shall apply to any health insurance coverage, whether provided on a group or individual basis, which:

- (1) Meets one or more of the conditions set forth in Iowa Code sections 513B.3(1) to 513B.3(3);
- (2) Provides coverage to one or more employees of a small employer located in this state without regard to whether the policy or certificate was issued in this state; and
- (3) Is in effect on or after July 1, 1991.

b. Except as specifically provided, the provisions of Iowa Code chapter 513B and this chapter shall not apply to health insurance coverages delivered or issued for delivery prior to the effective date of the Act.

71.3(2) a. A carrier or ODS that provides individual health insurance policies to one or more of the employees of a small employer shall be considered a small employer carrier or ODS and subject to the provisions of Iowa Code chapter 513B and this chapter with respect to such policies if the small employer contributes, directly or indirectly, to the premiums for the policies and the carrier or ODS is aware, or should have been aware, of such contribution.

b. In the case of a carrier or ODS that provides individual health insurance policies to one or more employees of a small employer, the small employer shall be considered an eligible small employer as defined in 513B.10 and the small employer carrier subject to 513B.10(1) “b”(2) if:

- (1) The small employer has at least two employees;
- (2) The small employer contributes, directly or indirectly, to the premiums charged by the carrier or ODS; and
- (3) The carrier or ODS is aware, or should have been aware, of the contribution by the employer.

71.3(3) Iowa Code chapter 513B and this chapter shall apply to health insurance coverage provided to a small employer or to the employees of a small employer without regard to whether the health insurance coverage is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group.

71.3(4) An individual health insurance policy shall not be subject to 513B and this chapter solely because the policyholder elects a business expense deduction under Section 162(1) of the Internal Revenue Code, the health insurance coverage is treated as part of a plan or program for purposes of Section 125 of the Internal Revenue Code for which the employee makes all the contributions, the employer provides payroll deduction of health insurance premiums on behalf of an employee if the health insurance coverage covers employees where the employer has applied for group health benefits and has received written notification that the group did not meet the small group carrier’s or ODS’s minimum participation or contribution standards. The individual health insurance carrier or ODS shall maintain a copy of the employer’s notification from the small group carrier for insurance division audit purposes.

71.3(5) a. If a small employer is issued health insurance coverage under the terms of 513B, the provisions of 513B and this chapter shall continue to apply to the health insurance coverage in the case that the small employer subsequently employs more than 50 eligible employees. A carrier or ODS providing coverage to such an employer shall, within 60 days of becoming aware that the employer has more than 50 eligible employees but no later than the anniversary date of the employer’s health insurance coverage, notify the employer that the protections provided under 513B and this chapter shall cease to apply to the employer if such employer fails to renew its current health insurance coverage or elects to enroll in different health insurance coverage. It is the responsibility of the employer to notify the carrier or ODS of changes in employment levels which could change the employer’s status as a small employer for the purposes of this chapter.

b. (1) If health insurance coverage is issued to an employer that is not a small employer as defined, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of Iowa Code chapter 513B shall not apply to the health insurance coverage. The carrier or ODS providing health insurance coverage to such an employer shall not become a small employer carrier or ODS under the terms of Iowa Code chapter 513B solely because the carrier or ODS continues to provide coverage under the health insurance coverage to the employer.

(2) A carrier or ODS providing coverage to an employer described in subparagraph “b”(1) shall, within 60 days of becoming aware that the employer has 50 or fewer eligible employees, notify the employer of the options and protections available to the employer under 513B, including the employer’s option to purchase a small employer health insurance coverage from any small employer carrier or ODS. It is the responsibility of the employer to notify the carrier of changes in employment levels which could change the employer’s status as a small employer for the purposes of this chapter.

71.3(6) a. (1) If a small employer has employees in more than one state, Iowa Code chapter 513B and this chapter shall apply to health insurance coverage issued to the small employer if:

1. The majority of eligible employees of such small employer are employed in this state; or
2. If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state.

(2) In determining whether the laws of this state or another state apply to health insurance coverage issued to a small employer described in subparagraph (1), the provisions of the paragraph shall be applied as of the date the health insurance coverage was issued to the small employer for the period that the health insurance coverage remains in effect.

b. If health insurance coverage is subject to Iowa Code chapter 513B and this chapter, the provisions of 513B and those set forth herein shall apply to all individuals covered under the health insurance coverage whether they reside in this state or in another state.

71.3(7) A carrier or ODS that is not operating as a small employer carrier or ODS in this state shall not become subject to the provisions of the Act and this regulation solely because a small employer that was issued health insurance coverage in another state by that carrier or ODS moves to this state.