



## CAHU NEWS AGENTS CAN USE

**August 20, 2014**

### Waiting Period Update Gov. Brown Signs 90-Day Waiting Period Bill Federal Changes also on Horizon

**State Action.** On Friday August 14, California Governor Jerry Brown signed into law legislation to bring the state's health coverage waiting period requirements for new hires back into line with federal law.

CAHU supported [Senate Bill \(SB\) 1034](#), Chapter 195, Statutes of 2014, authored by Senator Bill Monning (D-Carmel); prohibit healthcare benefit plans from imposing any waiting or affiliation period before issuing health coverage. The intent of the bill is to resolve confusion between state and federal law and to better conform to provisions of the Affordable Care Act (ACA). While the ACA had established a 90-day waiting period that applies broadly to employers, California had established a 60-day waiting period for health plans.

CAHU was the organization that spotted the problem with California's non-conformity with the employer waiting period requirements. CAHU stayed the course and followed through until it was corrected in state law with Governor Brown signing SB 1034.

SB 1034 is a product of two years of effort by CAHU that included numerous discussions with Senator Monning, key legislative staff, state regulators, small business groups, health insurance carriers, consumer organizations in order to restore clarity on the allowable waiting periods.

The bill takes effect on January 1, 2015, but many carriers are already indicating group renewals in the next few months may also restore employer ability to use the 90-day waiting period. Agents should be sure to check whether group plans they are offering to employers, whether as new policies or those being renewed, will permits the employer to utilize a new-hire waiting period of up to 90 days. Look for a chart of carrier policy on the waiting period to be available soon on [www.CAHU.org](http://www.CAHU.org).



**Covered California on Waiting Periods for SHOP policies.** CAHU also checked with Covered California on what their policy is on waiting periods for new hires on policies sold through SHOP. The answer: only the employer has the right to set a waiting period for new hires - never the plan. This means an employer with policy purchased in SHOP, has the ultimate authority to set a waiting period of up to 90 days for their new hires.

**Federal action on waiting periods**-in this case *orientation* periods - is also occurring at the federal level. In a final rule released in June 25, 2014 the Internal Revenue Service, the Employee Benefits Security Administration, and the Health and Human Services Department are authorizing an employer (who is offering ACA defined credible coverage) to have a "bona fide orientation period that occurs before the 90 waiting period begins. That means an employer that offers health coverage to employees could have an additional month of time before adding a new hire onto their health policy if there is a bona fide reason for an orientation period.

Under the final regulations, a group health plan and a health insurance issuer offering group health insurance coverage may not apply any waiting period that exceeds 90 days. The regulations define "waiting period" as the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective. Being otherwise eligible to enroll in a plan means having met the plan's substantive eligibility conditions (such as, for example, being in an eligible job classification, achieving job-related licensure requirements specified in the plan's terms, or satisfying a reasonable and bona fide employment-based orientation period.

The proposed regulations provided that one month would be the maximum allowed length of any reasonable and bona fide employment-based orientation period. During an orientation period, the regulators envisioned that an employer and employee could evaluate whether the employment situation was satisfactory for each party, and standard orientation and training processes would begin. Under the proposed regulations, if a group health plan conditions eligibility on an employee's having completed a reasonable and bona fide employment-based orientation period, the eligibility condition would not be considered to be designed to avoid compliance with the 90-day waiting period limitation if the orientation period did not exceed one month and the maximum 90-day waiting period would begin on the first day after the orientation period.

The federal orientation period rule becomes effective on all group policies issued or renewed after January 1, 2015.

[Click here for the Federal Register Notice.](#)

