



Chester A. McPherson  
Acting Commissioner

**BULLETIN**  
**15-IB-05-04/28**

**TO:** All Companies Writing Group Health Insurance in the District of Columbia  
**FROM:** Chester A. McPherson, Acting Commissioner  
**RE:** “Small Employer” Transitional Policy for the 2016 Plan Year  
**DATE:** April 28, 2015



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On January 1, 2016, the definition of “small employer” in the health insurance market under the Affordable Care Act (ACA) and District of Columbia insurance law will change to 1-100 employees from 1-50 employees. Notwithstanding, the District has elected to adopt the transitional policy for “small employers” issued by the Department of Health and Human Services, Center for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight (“CCIIO”), March 5, 2014 Bulletin, Extended Transition to Affordable Care Act – Compliant Policies, which remains in effect for policy years beginning on or before October 1, 2016.

The CCIIO transitional policy permits small employers of 51-100 employees to renew their existing policies and remain in the large group market without being deemed to have violated the ACA. According to CCIIO, “[s]tate agencies responsible for enforcing the specified market reforms are **encouraged** to adopt the same transitional policy....” To harmonize District policy with federal law, and clarify the Department’s position going forward, the Department offers the following guidance.

**TRANSITIONAL POLICY**

- For employers with 51-100 full time equivalent employees (FTEs), the Department will allow issuers to *renew* their current policies through policy years beginning on or before October 1, 2016 without their policies being considered out of compliance with the ACA or District law, notwithstanding the change in definition to the term “small group”, so long as allowed by the federal transitional policy guidance and/or the Department’s guidance.
- Employers with 51-100 FTEs can continue to purchase large group market policies through December 31, 2015. These large group policies may be renewed by October 1, 2016 under the transitional policy. All *new* policies sold to small employers with 51-100 employees after January 1, 2016 must comply with all ACA and District health benefit

plan requirements and may be purchased either through the DC Health Link or directly from the carriers.

- All health benefit plans sold by direct purchase to small employers with 51-100 employees on or after January 1, 2016 must be the same plans available for purchase to small employers through DC Health Link.

Please note that the decision to renew policies under the “small employer” transitional policy will be at the election of the issuer and any determination must be made for all product offerings within the 51-100 employee market segment. If an issuer makes such an election, the issuer must inform the Department of their decision and the number of groups affected. The District’s “Small Employer” Transitional Policy will remain in effect so long as allowed under the CCIIO Federal policy.

If you have any questions or comments concerning this bulletin, please contact the Insurance Bureau of the Department of Insurance, Securities and Banking at (202) 727-8000 or email [disb@dc.gov](mailto:disb@dc.gov).