STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
Nashville, Tennessee

BULLETIN

TO: All Health Insurers Offering Policies on the Federally Facilitated Marketplace

FROM: Julie Mix McPeak, Commissioner

RE: Prompt Pay Provisions and the ACA Grace Period

DATE: April 21, 2014

The Tennessee Department of Commerce and Insurance ("Department") has been made aware of questions related to a Patient Protection and Affordable Care Act ("ACA") three month grace period and prompt pay provisions under Tennessee statutes. The purpose of this Bulletin is to clarify that the Department will not consider a health insurance carrier to be in violation of State statutes if it pends claims after 30 days, as permitted under the ACA, for nonpayment of premium for enrollees selecting an advance premium tax credit.

The Department understands that the ACA requires Qualified Health Plans ("QHPs") issuing plans through the Federally Facilitated Marketplace (FFM) to extend a grace period of three months for non-payment of premium before coverage can be terminated. Issuers must pay claims incurred during the first month of coverage, but may pend claims incurred during the second and third months if the premium payment is more than 30 days late. These requirements only apply to claims for enrollees selecting an advance premium tax credit. The federal requirements may appear inconsistent with Tennessee prompt pay requirements under Tenn. Code Ann. § 56-7-109 which require, in part, that clean claims be paid no later than 30 calendar days after the date that an issuer receives a claim from a provider.

The definition of "Clean claim" in TCA 56-7-109(a)(1)(A) states, in pertinent part, "...A claim is clean if it has no defect or impropriety, including any lack of any required substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this section;"

The Department believes that the ACA grace period creates such a "particular circumstance requiring special treatment." The Department will, therefore, not consider an FFM issuer to be in violation of Tenn. Code Ann. § 56-7-109 in the specific circumstances involving an advance premium tax credit and consumer premium payments more than 30 days late during the three month grace period.

Any questions about the intent of this Bulletin should be directed to the Insurance Division's Policy Analysis Section, 6th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or telephone number (615) 741-2825.