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DEPARTMENT OF INSURANCE

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BULLETIN NO. 01-1

DATE: March 15, 2001

TO: Individual Health Insurance Carriers

FROM: Mary L. Hartung, Director

SUBJECT: Individual Health Insurance High Risk Pool
Health Insurance Portability and Accountability Act (HIPAA)

Last year, Chapter 55 of Title 41, Idaho Code, was enacted creating the Idaho Individual High Risk Reinsurance Pool. The Individual High Risk Reinsurance Pool is intended to provide Idaho citizens with continued access to individual health insurance coverage regardless of health status or claims experience. As required by the new law, Individual High Risk Reinsurance Pool health plans became available beginning January 1, 2001.

The High Risk Reinsurance Pool plans represent Idaho's "alternative mechanism" for meeting federal requirements for HIPAA eligible individuals. Idaho was required to file the new alternative mechanism with the Private Health Insurance Group, a division of the federal Health Care Financing Administration (HCFA). HCFA review identified a potential conflict between requirements for Idaho High Risk Pool plan eligibility and federal requirements for HIPAA eligible individuals. Specifically, Idaho Code § 41-5501(6) defines an "eligible individual" for purposes of the High Risk Reinsurance Pool as a person under the age of sixty-five (65) years. HCFA has determined that under some circumstances this limitation, if applied to a HIPAA eligible person, would be in conflict with federal requirements and, therefore, preempted. The purpose of this bulletin is to advise individual health insurance carriers that the age limitation of Section 41-5501(6) may not be applied to a HIPAA eligible individual who is not eligible for coverage under: (1) a group health plan, (2) part A or part B of title XVIII of the Social Security Act, or (3) a state plan under title XIX of the Social Security Act (or any successor program), and who does not have other health insurance coverage.

The definition of a HIPAA eligible individual is set forth within the code of Federal Regulations at 45 CFR, Part 148.103, definitions.

If you have questions regarding this matter, please contact Joan Krosch, Health Insurance Specialist, at (208) 334-4300, or e-mail jkrosch@doi.state.id.us.