

CHAPTER 65
REGULATION GOVERNING THE SALE OF
OUT-OF-STATE HEALTH INSURANCE POLICIES

Section 1. Authority

This regulation governing the sale of out-of-state health insurance policies in the state of Wyoming supplements the provisions of W.S. 26-18-301, et seq. This regulation is promulgated by authority of and pursuant to the provisions in W.S. 26-18-305 directing the Wyoming insurance commissioner to adopt rules and regulations necessary for filing, approval, and sale of health insurance policies that have been approved for sale in other states, the Wyoming Administrative Procedure Act (W.S. 16-3-101 through W.S. 16-3-115) and the Wyoming Insurance Code (W.S. 26-2-110 and W.S. 26-2-125).

Section 2. Purpose

The purpose of this Regulation is:

(a) To establish standards for the sale of out-of-state health insurance policies, to develop a method of overseeing insurers selling out-of-state health insurance policies in Wyoming, and to protect the interests of Wyoming consumers who purchase out-of-state health insurance policies.

(b) To declare that failure to comply with the provisions of this regulation will be deemed an unfair method of competition and an unfair trade practice.

Section 3. Scope

This regulation shall apply to the sale of health insurance policies including individual disability policies, small group disability policies, or high deductible health policies approved for sale in other states pursuant to W.S. 26-18-301, et seq.

Section 4. Definitions

(a) As used in this regulation:

(i) “Domicile state” means the state that originally approved for sale the health insurance policies that the insurer intends to sell in Wyoming pursuant to W. S. 26-18-301, et seq.

(ii) “Essential community provider” means a provider that serves predominantly low-income or medically underserved individuals.

(iii) “Health insurance” means individual disability policies, small group disability policies, or high deductible health policies as defined by W.S. § 26-1-102(a)(xxxiii).

(iv) “Out-of-state health insurance policy” means a plan sold pursuant to W.S. § 26-18-301, et seq. by a Wyoming licensed insurer that has been approved for sale in another state.

(v) “Provider network” means the facilities, providers, and supplier the insurer has contracted with to provide health care services.

(vi) “SERFF” means the system for electronic rate and form filing as developed and implemented by the National Association of Insurance Commissioners.

(vii) “Wyoming mandated benefits” means benefits required for individual and group plans including adult wellness benefits pursuant to W.S. § 26-18-103(b) and W.S. § 26-19-107(h); mandated coverage pursuant to W.S. § 26-20-101, W.S. §26-20-201, W.S. § 26-20-301, and W.S. § 26-20-401; for group plans only, public health screenings pursuant to W.S. § 26-19-107(j); and any other benefits mandated in Wyoming by statute after the date of adoption of this regulation.

Section 5. **Application**

(a) **Application Contents.** Prior to the sale of out-of-state health insurance policies in Wyoming, the insurer must file an application as prescribed by the Wyoming insurance commissioner and are subject to the applicable SERFF filing fees. The application must include at a minimum the following:

(i) Proof of current approval and product line authority in domicile state including health policy form number and date approved in the domicile state;

(ii) Proof of authorization to transact insurance in Wyoming;

(iii) The price of the health policy as sold in the domicile state and whether the health policy will be at the same price or at a Wyoming specific price;

(iv) A network provider directory that must, at a minimum, include providers’ specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers in the provider network; and

(v) A description of the relationship between the insurer making the filing and the affiliate insurer, if any, which currently has approval for the issuance of health insurance policies in another state, the original state where the proposed product was approved, and the date of such approval.

(b) Policy Filing Requirements

(i) All health insurance policies offered or intended to be sold pursuant to W.S. 26-18-301, et seq. shall be filed for prior review and approval and are subject to the applicable SERFF filing and policy form filing fees.

(ii) For each out-of-state health insurance policy sold or intended to be sold in Wyoming, the insurer must file an outline of coverage with the health policy form filings and are subject to the applicable SERFF filing fees. The outline of coverage must have a section defining the benefits the health insurance policy provides. The outline of coverage must state whether the policy offers any Wyoming mandated benefits, and, if so, what Wyoming mandated benefits the policy offers. The Wyoming insurance commissioner can require additional information be disclosed in the outline of coverage.

(c) Agreement Between Carrier and Commissioner

(i) Pursuant to W.S. 26-18-302(a)(iv) the insurer seeking to offer out-of-state health insurance policies in Wyoming must agree that the Wyoming insurance commissioner may enforce the provisions of the insurance policy and resolve disputes between the insurer and the policyholder.

(ii) The agreement will be a written agreement signed by the insurer. The agreement shall be on a form as prescribed by the Wyoming insurance commissioner.

(d) Should the insurer fail to comply with the application and filing procedures as prescribed by this regulation and as otherwise prescribed by the Wyoming insurance commissioner pursuant to Wyoming law, the insurer's application may be rejected and the insurer may be denied the authority to issue out-of-state health insurance policies.

Section 6. Policy Requirements

(a) Network Adequacy

(i) Pursuant to W.S. 26-18-302(a)(vii), the Wyoming insurance commissioner shall review any provider network requirements in the out-of-state health insurance policy and may require modification of those requirements if the policy lacks sufficient network providers in Wyoming.

(ii) Provider networks are sufficient so long as:

(A) The insurer maintains a network that is sufficient in number and types of providers in Wyoming so as to assure that all services will be accessible without

unreasonable delay as proven by submitting a network provider list to the Wyoming Department of Insurance; and

(B) The network has at least thirty percent (30%) of available essential community providers in the policy's service area. A network that has at least five percent (5%) of available essential community providers in the policy's service area may be considered sufficient so long as the insurer includes as part of its application a satisfactory narrative describing how the insurer's provider network(s), as currently designed provides an adequate level of service for low-income and medically underserved enrollees.

(iii) If the insurer has insufficient number or type of participating providers to provide a covered benefit, the insurer shall ensure that the covered person obtains the covered benefit at no greater cost to the covered person than if the benefit were obtained from participating providers, or shall make arrangements acceptable to the Wyoming insurance commissioner.

(iv) The insurer shall include a provider directory with the application form. The directory must at a minimum list providers' specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers in the provider network. The Wyoming Insurance Commissioner can require that more categories of disclosure be included in the provider directory. The Wyoming insurance commissioner may terminate the insurer's ability to issue out-of-state health insurance policies in Wyoming should the network fail to meet the network adequacy standards set forth in this regulation.

(v) The insurer shall give the Wyoming insurance commissioner prompt notice of a potential loss of a material provider. Upon such notice the Wyoming insurance commissioner has the authority to initiate an interim network adequacy review.

(vi) Should the state of Wyoming adopt statutory standards for network adequacy for health insurance policies sold in Wyoming, those statutory provisions will preempt this regulatory guidance on network adequacy. Policies sold pursuant to W.S. 26-18-301, et seq. will then be required to meet the statutory standards for network adequacy.

Section 7. Reporting Requirements.

(a) All reporting requirements shall be submitted annually by March 1 every year through SERFF, and are subject to the applicable SERFF filing fees.

(b) Annual Network Report.

(i) An insurer shall file with the Wyoming Department of Insurance an updated network provider directory on an annual basis.

(ii) The directory at a minimum must list providers' specialties, locations of providers, acceptance of new patient status, the total unduplicated providers, and the total number of essential community providers. If the network has under thirty percent (30%) of the essential community providers available in Wyoming, the insurer must give a narrative justification describing how the provider network(s) provides an adequate level of service for low-income and medically underserved enrollees.

(iii) The Wyoming insurance commissioner may terminate an insurer's ability to issue out-of-state health insurance policies in Wyoming should the network not meet the network adequacy standards set forth in this regulation. The Wyoming insurance commissioner may terminate an insurer's ability to issue out-of-state health insurance policies in Wyoming should the insurer fail to file an annual network report pursuant to the Commissioner's authority to establish network provider requirements as authorized under W.S. §26-18-302(a)(vii).

(c) **Annual Rating Report**

(i) An insurer shall file with the Wyoming Department Insurance a rating report on an annual basis.

(ii) The rating report at a minimum must list every product sold in Wyoming pursuant to W.S. 26-18-301, et seq., the rates of each product sold in Wyoming, the rates of each product sold in the domicile state. Should the rate of any products sold in Wyoming exceed ten percent (10%) of the cost of the same product sold in the domicile state, the insurer must attach a narrative explaining the difference in rate.

Section 8. Separability

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected.

Section 9. Effective Date

This regulation shall be effective immediately upon filing with the Secretary of State.