



September 12, 2022

Via Email – OSI-docketfiling@state.nm.us

R. Alfred Walker, Hearing Officer
Office of Superintendent of Insurance
PO Box 1689
Santa Fe, New Mexico 87504-1689

Re: *In the Matter of Adopting Amendments To 13.10.35 NMAC Minimum Standards for Dental and Vision Plans* Docket No. 2022-0055

Dear Hearing Officer Walker:

Dearborn Life Insurance Company has reviewed the proposed rule amendments to the regulations issued by the Office of Superintendent of Insurance issued August 9, 2022. Dearborn issues vision coverage for group plans in many states including in the State of New Mexico.

We write to request a proposed revision to the extra-territoriality rule as it applies to vision and dental group insurance to be consistent with the recent amendment adopted by the Hearing Officer in the proposed rule-making for excepted benefit policies. *See In re Repealing And Replacing Rules Codified at 13.10.34 NMAC Standards for Accident Only et al.*, Docket No. 2021-0084.

The Current Rule at Section 13.10.35.2 states “[s]ubject to the foregoing, this rule applies to a group dental or vision plan offered or sold to a New Mexico resident under a master policy delivered outside of this state.” The Proposed Rule Amendment is seeking to modify the scope of its application to individual and group dental and vision policies issued outside of the State, regardless of “whether on or off the exchange.”

We suggest, at a minimum, that the OSI consider amending the extra-territoriality scope to conform to the scope recently adopted by Hearing Officer Richard B. Word on July 7, 2022. After consideration of the points raised, Hearing Officer Word approved the following change to the scope of Extraterritorial Plans for other excepted benefit plans as follows:

B. Extraterritorial Plans. This rule applies to every subject individual, group and blanket contract of insurance, including any certificate, delivered in this state, and to any subject contract issued to a group located outside of this state, if any covered person resides in this state, except:

(1) a group plan, and certificates of insurance relating to that plan, issued to an out-of-state employer that employs 100 or fewer New Mexico residents at any time during the calendar year; or

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(2) a group or blanket plan issued to an out-of-state entity that resides in a state whose laws offer protections that, in the discretion of the superintendent, are equivalent to or more protective than New Mexico law.

NMAC §13.10.34.2.

Although we have concerns that the application of extra-territorial jurisdiction creates a patchwork of laws affecting the administration of policies, adopting the proposed change from Hearing Officer Word at least creates uniformity across products issued by insurers. For example, adopting the currently proposed language would create a different extra-territorial application for Hospital Indemnity coverage from vision benefits. An employer group needs to engage in a complicated analysis in order to be able to understand and explain the difference in the application of New Mexico's regulations for each employee benefit it offers to its employees.

Many insurers, including Dearborn Group, issue group policies providing disability income benefits, accidental only, specific disease coverage and vision benefits. Having a different extra-territorial scope based on the type of insurance product creates an overly complicated system.

The difference in extraterritorial scope will lead to consumer confusion and significant burdens in the administration of group insurance plans.

We hope you will consider these points with respect to the proposed amendments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John T. Seybert", with a stylized flourish at the end.

JOHN T. SEYBERT
Senior Associate General Counsel