

§ 1389.21. Proscription against rescission, cancellation, or limitation of policy, or rise in premiums after 24 months following issuance of health care service plan contract

- (a) A health care service plan shall not rescind a plan contract, or limit any

provisions of a plan contract, once an enrollee is covered under the contract unless the plan can demonstrate that the enrollee has performed an act or practice constituting fraud or made an intentional misrepresentation of material fact as prohibited by the terms of the contract.

(b) If a plan intends to rescind a plan contract pursuant to subdivision (a), the plan shall send a notice to the enrollee or subscriber via regular certified mail at least 30 days prior to the effective date of the rescission explaining the reasons for the intended rescission and notifying the enrollee or subscriber of his or her right to appeal that decision to the director pursuant to subdivision (b) of Section 1365.

(c) Notwithstanding subdivision (a), Section 1365 or any other provision of law, after 24 months following the issuance of a health care service plan contract, a plan shall not rescind the plan contract for any reason, and shall not cancel the plan contract, limit any of the provisions of the plan contract, or raise premiums on the plan contract due to any omissions, misrepresentations, or inaccuracies in the application form, whether willful or not. Nothing in this subdivision shall be construed to alter existing law that otherwise applies to a health care service plan within the first 24 months following the issuance of a health care service plan contract.

HISTORY:

Added Stats 2009 ch 406 § 1 (AB 108), effective January 1, 2010. Amended Stats 2010 ch 658 § 8 (AB 2470), effective January 1, 2011.