

HIPAA Eligibility Criteria for Individual Coverage

Guaranteed right to purchase individual coverage under HIPAA.

HIPAA eligibility in the individual market (either in the commercial market, the state high risk pool, or other means the state may choose) gives an individual access to health coverage on a guaranteed issue basis, without the imposition of a preexisting condition exclusion. HIPAA does not regulate premiums. The states do, if they have rating authority. The Federal standards for HIPAA eligibility for portability to individual coverage are:

- the individual must have a total of 18 months of creditable coverage;
- the individual must avoid a significant break in health coverage of 63 or more full days in a row (unless your state is more generous). A significant break in coverage results in the individual losing credit for the coverage before the break;
- the individual may not have any medical coverage, other than that which will soon be exhausted;
- if COBRA, state continuation coverage, or Federal Temporary Continuation Coverage has been offered, a person must accept and exhaust it. Although an individual may apply for HIPAA coverage before the termination of COBRA, COBRA must be exhausted and then the new coverage will start;
- the individual may not be eligible for any other employment related group health coverage, Medicare or Medicaid;
- the individual must have the last coverage through an employer or union plan (COBRA, State and Federal continuation coverage meet this requirement);
- the individual must not have lost their last coverage through fraud or non-payment of premiums;
- generally, the individual must not accept, after losing group coverage, a conversion policy (although a few states use this as part of their mechanism) or policy of limited duration because they are both forms of individual coverage and end the individual's HIPAA portability rights.

If you are a HIPAA eligible individual, contact your State Department of Insurance (DOI) and identify yourself as a HIPAA eligible individual. The State DOI can provide contact information for issuers who sell HIPAA policies or the high risk pool if the state meets Federal standards through that means. If you do not qualify as a HIPAA eligible individual, your State DOI may have information about additional state protections.