

Vermont Department of Banking Insurance, Securities & Health Care Administration
Division of Health Care Administration
(Web text version of letter)

September 6, 2005

Mary L. Schendel, Esq.
Assistant Vice President and Senior Counsel
UNUMProvident Corporation
2211 Congress Street
Portland, ME 04122

Subject: Regulation 80-1 Applies to All Groups, Including Employer Groups

Dear Attorney Schendel:

This letter shall serve as a response to your letter of August 2, 2005, received by the Department on August 5, 2005. In that letter, you challenge the Department's longstanding position that Regulation 80-1 applies to all group accident and health policies, including those issued to employers, labor organizations, and professional, trade and occupational associations. Your letter asks that the Department either modify its position as to the applicability of Regulation 80-1, or formally amend the regulation.

The Department declines your invitation to modify its position. Regulation 80-1 serves as the only source of specific standards for a number of types of group health policies, including those disability policies offered by UNUM Provident. There is no doubt that the Commissioner has the authority to adopt standards for group health policies. *See* 8 V.S.A. § 15 and 8 V.S.A. 4062. The text of the applicability provision of the regulation lends itself to a reasonable interpretation that the regulation applies to all group policies.

The Department's longstanding interpretation of this regulation has been applied universally and fairly to all group policies filed with the Department for approval for at least ten years. Enforcement of the regulation in this manner for this length of time precludes any argument that the interpretation is arbitrary or capricious.

Given the longstanding and consistent application of Regulation 80-1 to all groups, and the complexity and age of this regulation, the Department also denies your request for the Department to formally amend the regulation. The Department is currently evaluating the advisability of a more extensive and substantive amendment to this decades-old regulation. As such, we believe the Department's resources would be used more wisely if the regulation were amended only once. Accordingly, if the Department decides to amend Regulation 80-1, it will also evaluate the advisability of rewriting the applicability section to make it absolutely clear that the regulation applies to all groups. Of course, we will include UNUM Provident in the public input phase of any such rulemaking.

In order to further public knowledge of the application of Regulation 80-1 to all groups, the Department will post this letter on its website.

Please contact Cassandra Edson, Staff Attorney and Director of Rates and Forms at (802) 828-2900 if you wish to discuss this matter further.

Sincerely,

Paulette Thabault
Deputy Commissioner

Cc: John P. Crowley, Commissioner
Cassandra S. Edson, Staff Attorney/Director of Rates and Forms