

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 122
HOUSE BILL 2175

AN ACT

AMENDING SECTIONS 20-485, 20-1401 AND 20-1404, ARIZONA REVISED STATUTES;
RELATING TO INSURANCE ADMINISTRATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-485, Arizona Revised Statutes, is amended to
3 read:

4 20-485. Definitions: scope

5 A. In this article, unless the context otherwise requires:

6 1. "Administrator" means any person who collects charges or
7 premiums from or paid on behalf of, or who adjusts or settles claims by,
8 residents of this state in connection with life or health insurance
9 coverage or annuities other than any of the following:

10 (a) An employer on behalf of ~~such~~ THE employer's employees or the
11 employees of one or more subsidiary or affiliated corporations of ~~such~~ THE
12 employer.

13 (b) A union on behalf of its members.

14 (c) An insurer authorized to transact insurance in this state,
15 including its employees and sales representatives, to the extent that it
16 collects charges or premiums from or paid on behalf of, or adjusts or
17 settles claims by, residents of this state in connection with life or
18 health insurance coverage or annuities lawfully issued and delivered or
19 assumed in this state and pursuant to the laws of this state or another
20 state and for which the insurer or an affiliated insurer is presently
21 directly liable.

22 (d) An insurer authorized to transact insurance in this state,
23 including its employees and sales representatives, to the extent that it
24 collects charges or premiums from or paid on behalf of, or adjusts or
25 settles claims by, residents of this state in connection with life or
26 health insurance coverage or annuities lawfully issued and delivered or
27 assumed in this state and pursuant to the laws of this state or another
28 state and for which an unaffiliated insurer is presently directly liable.

29 (e) A person other than an insurer, to the extent that the person's
30 activities are limited to the collection of charges or premiums from or
31 paid on behalf of, or the adjustment or settlement of claims by, residents
32 of this state in connection with life and health insurance coverage issued
33 and delivered or assumed by an affiliated insurer authorized to transact
34 insurance in this state and for which the affiliated insurer is presently
35 directly liable.

36 (f) A life or disability insurance producer who is licensed in this
37 state ~~and whose activities are limited exclusively to the sale of~~
38 ~~insurance~~ OR AN EMPLOYEE OF A LICENSED PRODUCER WORKING AT THE DIRECTION
39 AND UNDER THE SUPERVISION OF A LICENSED PRODUCER IF THE PRODUCER OR THE
40 PRODUCER'S EMPLOYEE DOES NOT ADJUST OR SETTLE CLAIMS.

41 (g) A creditor on behalf of ~~such~~ THE creditor's debtors with
42 respect to insurance covering a debt between the creditor and its debtors.

43 (h) A trust and its trustees, agents and employees acting pursuant
44 to ~~such~~ THE trust established in conformity with 29 United States Code
45 section 186.

1 (i) A trust exempt from taxation under section 501(a) of the
2 internal revenue code and its trustees and employees acting pursuant to
3 ~~such~~ THE trust, or a custodian and its agents and employees acting
4 pursuant to a custodian account ~~which~~ THAT meets the requirements of
5 section 401(f) of the internal revenue code.

6 (j) A financial institution ~~which~~ OR MONEY TRANSMITTER THAT is
7 subject to supervision or examination by federal or state banking
8 authorities IF THE FINANCIAL INSTITUTION OR MONEY TRANSMITTER DOES NOT
9 ADJUST OR SETTLE CLAIMS.

10 (k) A credit card issuing company ~~which~~ THAT advances for and
11 collects premiums or charges from its credit card holders who have
12 authorized such collection, if ~~such~~ THE company does not adjust or settle
13 claims.

14 (l) A person who adjusts or settles claims in the normal course of
15 ~~such~~ THE person's practice or employment as an attorney and who does not
16 collect charges or premiums in connection with life or health insurance
17 coverage or annuities.

18 (m) An adjuster WHO IS licensed in this state while acting in
19 accordance with an adjuster's license.

20 (n) A person who acts only as an administrator of one or more bona
21 fide employee benefit plans established by an employer or an employee
22 organization, or both, for which the insurance laws of this state are
23 preempted pursuant to the employee retirement income security act of 1974
24 (P.L. 93-406; 88 Stat. 829; 29 United States Code sections 1001 through
25 1461).

26 (o) A CREDIT CARD PROCESSING COMPANY THAT PROCESSES PAYMENTS OR
27 CHARGES FOR PREMIUMS IF THE COMPANY DOES NOT ADJUST OR SETTLE CLAIMS.

28 (p) A QUALIFIED MARKETPLACE PLATFORM ON BEHALF OF QUALIFIED
29 MARKETPLACE CONTRACTORS THAT HAVE EXECUTED A WRITTEN CONTRACT WITH THE
30 QUALIFIED MARKETPLACE PLATFORM THAT COMPLIES WITH THE REQUIREMENTS OF
31 SECTION 23-1603, SUBSECTION A.

32 (q) AN EMPLOYEE OF THE GROUP POLICYHOLDER WHO COLLECTS OR REMITS
33 PREMIUMS FOR GROUP LIFE INSURANCE, GROUP ANNUITIES OR GROUP OR BLANKET
34 DISABILITY INSURANCE IF THE PERSON DOES NOT ADJUST CLAIMS OR RECEIVE ANY
35 COMMISSIONS.

36 (r) AN ADMINISTRATOR OF A TRUST THAT WAS ESTABLISHED TO PROVIDE
37 LIFE INSURANCE, DISABILITY INSURANCE OR ANNUITIES TO PARTICIPANTS IN THE
38 TRUST AND THAT IS ALSO A GROUP POLICYHOLDER. THE ADMINISTRATOR MAY ACT
39 ONLY AS AN ADMINISTRATOR OF THE TRUST AND MAY NOT ADJUST OR SETTLE CLAIMS.

40 2. "Affiliate" or "affiliated" means a person who directly, or
41 indirectly through one or more intermediaries, controls, is controlled by
42 or is under common control with a specified person.

43 3. "Control" means the direct or ultimate possession of the power
44 to direct or cause the direction of the management and policies of a
45 person whether through voting rights, contracts, other than commercial

1 contracts for goods or nonmanagement services, or otherwise, unless the
2 power is the result of an official position or corporate office. Control
3 exists if any person, directly or indirectly, owns, controls, holds with
4 the power to vote or holds proxies representing ten ~~per cent~~ PERCENT or
5 more of the voting rights of any other person, including the right to
6 elect or appoint the officers or directors of a nonprofit corporation.

7 4. "Insurer" means any person who provides life or health insurance
8 coverage in this state or who transacts annuity business in this state.
9 Insurer includes an authorized insurer, hospital, medical, dental or
10 optometric service corporation or health care services organization or any
11 other person providing a plan of insurance subject to the laws of
12 insurance of this state. Insurer does not include a self-insured or a
13 self-funded employee benefit plan if regulation of that plan is preempted
14 pursuant to section 1144(a) of the employee retirement income security act
15 of 1974 (29 United States Code section 1144(a)) but does include an
16 insurer who provides coverage as part of an employee benefit plan.

17 5. "Principal" means a person who has the authority to enter into
18 written agreements on behalf of the administrator pursuant to section
19 20-485.01.

20 6. "QUALIFIED MARKETPLACE CONTRACTOR":

21 (a) MEANS ANY PERSON OR ORGANIZATION, INCLUDING AN INDIVIDUAL,
22 CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR
23 OTHER ENTITY, THAT ENTERS INTO AN AGREEMENT WITH A QUALIFIED MARKETPLACE
24 PLATFORM TO USE THE QUALIFIED MARKETPLACE PLATFORM'S DIGITAL PLATFORM TO
25 PROVIDE SERVICES TO THIRD-PARTY INDIVIDUALS OR ENTITIES SEEKING THOSE
26 SERVICES.

27 (b) DOES NOT INCLUDE A CONTRACTOR IF THE SERVICES PERFORMED CONSIST
28 OF TRANSPORTING FREIGHT, SEALED AND CLOSED ENVELOPES, BOXES OR PARCELS OR
29 OTHER SEALED AND CLOSED CONTAINERS FOR COMPENSATION.

30 7. "QUALIFIED MARKETPLACE PLATFORM":

31 (a) MEANS AN ORGANIZATION, INCLUDING A CORPORATION, LIMITED
32 LIABILITY COMPANY, PARTNERSHIP, SOLE PROPRIETOR OR OTHER ENTITY, THAT
33 BOTH:

34 (i) OPERATES A DIGITAL WEBSITE OR DIGITAL SMARTPHONE APPLICATION
35 THAT FACILITATES THE PROVISION OF SERVICES BY QUALIFIED MARKETPLACE
36 CONTRACTORS TO INDIVIDUALS OR ENTITIES SEEKING THOSE SERVICES.

37 (ii) ACCEPTS SERVICE REQUESTS FROM THE PUBLIC ONLY THROUGH ITS
38 DIGITAL WEBSITE OR DIGITAL SMARTPHONE APPLICATION AND DOES NOT ACCEPT
39 SERVICE REQUESTS BY TELEPHONE, BY FAX OR IN PERSON AT PHYSICAL RETAIL
40 LOCATIONS.

41 (b) DOES NOT INCLUDE ANY DIGITAL WEBSITE OR SMARTPHONE APPLICATION
42 IF THE SERVICES FACILITATED CONSIST OF TRANSPORTING FREIGHT, SEALED AND
43 CLOSED ENVELOPES, BOXES OR PARCELS OR OTHER SEALED AND CLOSED CONTAINERS
44 FOR COMPENSATION.

1 B. To the extent that an insurer is subject to subsection A,
2 paragraph 1, subdivision (d) of this section, it shall comply with this
3 article except sections 20-485.10 and 20-485.12.

4 C. This article does not apply to a person acting exclusively as a
5 third party intermediary entity as prescribed in section 20-120.

6 Sec. 2. Section 20-1401, Arizona Revised Statutes, is amended to
7 read:

8 20-1401. Eligible groups

9 A. Group disability insurance is that form of disability insurance
10 covering groups of persons as defined below, with or without one or more
11 members of their families or one or more of their dependents, or covering
12 one or more members of the families or one or more dependents of persons
13 in such groups, and issued ~~upon~~ ON the following basis:

14 1. Under a policy issued to an employer or trustees of a fund
15 established by an employer, who shall be deemed the policyholder, insuring
16 at least two employees of the employer, for the benefit of persons other
17 than the employer. ~~The term FOR THE PURPOSES OF THIS PARAGRAPH,~~
18 "employees" ~~as used herein shall be deemed to include~~ INCLUDES:

19 (a) The officers, managers and employees of the employer, the
20 individual proprietor or partners if the employer is an individual
21 proprietor or partnership, the officers, managers and employees of
22 subsidiary or affiliated corporations, ~~AND~~ AND the individual proprietors,
23 partners and employees of individuals and firms, if the business of the
24 employer and such individual or firm is under common control through stock
25 ownership, contract or otherwise. ~~The term "employees" as used herein~~
26 ~~shall be deemed to include~~

27 (b) Retired employees.

28 (c) ~~IF~~ IF a policy issued to insure employees of a public body ~~may~~
29 ~~provide that the term "employees" shall include~~ SO PROVIDES, elected or
30 appointed officials.

31 2. Under a policy issued to an association, including a labor
32 union, which shall have a constitution and bylaws and which has been
33 organized and is maintained in good faith for purposes other than that of
34 obtaining insurance, insuring at least twenty-five members, employees or
35 employees of members of the association for the benefit of persons other
36 than the association or its officers or trustees. ~~The term FOR THE~~
37 ~~PURPOSES OF THIS PARAGRAPH,~~ "employees" ~~as used herein shall be deemed to~~
38 ~~include~~ INCLUDES retired employees.

39 3. Under a policy issued to the trustees of a fund established by
40 two or more employers in the same industry or by one or more labor unions
41 or by one or more employers and one or more labor unions, which trustees
42 shall be deemed the policyholder, to insure employees of the employers or
43 members of the unions for the benefit of persons other than the employers
44 or the unions. ~~The term FOR THE PURPOSES OF THIS PARAGRAPH,~~ "employees"
45 ~~as used herein shall be deemed to include~~ INCLUDES:

1 (a) The officers, managers and employees of the employer, and the
2 individual proprietor or partners if the employer is an individual
3 proprietor or partnership. ~~The term "employees" as used herein shall be~~
4 ~~deemed to include~~

5 (b) Retired employees.

6 (c) ~~IF the policy may provide that the term "employees" shall~~
7 ~~include~~ SO PROVIDES, the trustees or their employees, or both, if their
8 duties are principally connected with such trusteeship.

9 4. Under a policy issued to any persons or organizations to which a
10 policy of group life insurance may be delivered in this state, to insure
11 any class or classes of individuals that could be insured under such group
12 life policy.

13 5. UNDER A POLICY OR CONTRACT ISSUED TO A QUALIFIED MARKETPLACE
14 PLATFORM, WHICH SHALL BE DEEMED THE POLICYHOLDER, COVERING QUALIFIED
15 MARKETPLACE CONTRACTORS WHO HAVE EXECUTED A WRITTEN CONTRACT WITH THE
16 QUALIFIED MARKETPLACE PLATFORM. FOR THE PURPOSES OF THIS PARAGRAPH,
17 "QUALIFIED MARKETPLACE CONTRACTOR" AND "QUALIFIED MARKETPLACE PLATFORM"
18 HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 20-485.

19 ~~5.~~ 6. Under a policy issued to cover any other substantially
20 similar group ~~which~~ THAT, in the discretion of the director, may be
21 subject to the issuance of a group disability policy or contract.

22 B. ~~Nothing in~~ This article ~~validates~~ DOES NOT VALIDATE any charge
23 or practice illegal under any rule of law or regulation governing usury,
24 consumer lender loans, retail installment sales or the like, or ~~extends~~
25 EXTEND the application of any such rule of law or regulation to any
26 transaction not otherwise subject ~~thereto~~ TO IT.

27 Sec. 3. Section 20-1404, Arizona Revised Statutes, is amended to
28 read:

29 20-1404. Blanket disability insurance: definitions

30 A. Blanket disability insurance is that form of disability
31 insurance covering special groups of persons as enumerated in one of the
32 following paragraphs:

33 1. Under a policy or contract issued to any common carrier or to
34 any operator, owner or lessee of a means of transportation, which shall be
35 deemed the policyholder, covering a group defined as all persons who may
36 become passengers on such common carrier or means of transportation.

37 2. Under a policy or contract issued to an employer, who shall be
38 deemed the policyholder, covering all employees or any group of employees
39 defined by reference to hazards incident to an activity or activities or
40 operations of the policyholder. Dependents of the employees and guests of
41 the employer or employees may also be included where exposed to the same
42 hazards.

43 3. Under a policy or contract issued to a college, school or other
44 institution of learning or to the head or principal thereof, who or which

1 shall be deemed the policyholder, covering students, teachers, employees
2 or volunteers.

3 4. Under a policy or contract issued in the name of any volunteer
4 fire department or any first aid, civil defense or other such volunteer
5 group, or agency having jurisdiction thereof, which shall be deemed the
6 policyholder, covering all or any group of the members, participants or
7 volunteers of ~~such~~ THE fire department or first aid, civil defense or
8 other group.

9 5. Under a policy or contract issued to a creditor, who shall be
10 deemed the policyholder, to insure debtors of the creditor.

11 6. Under a policy or contract issued to a sports team or to a camp
12 or sponsor thereof, which team or camp or sponsor thereof shall be deemed
13 the policyholder, covering members, campers, employees, officials,
14 supervisors or volunteers.

15 7. Under a policy or contract issued to an incorporated or
16 unincorporated religious, charitable, recreational, educational or civic
17 organization, or branch thereof, which organization shall be deemed the
18 policyholder, covering any group of members, participants or volunteers
19 defined by reference to hazards incident to an activity or activities or
20 operations sponsored or supervised by or on the premises of the
21 policyholder.

22 8. Under a policy or contract issued to a newspaper or other
23 publisher, which shall be deemed the policyholder, covering its carriers.

24 9. Under a policy or contract issued to a restaurant, hotel, motel,
25 resort, innkeeper or other group with a high degree of potential customer
26 liability, which shall be deemed the policyholder, covering patrons or
27 guests.

28 10. Under a policy or contract issued to a health care provider or
29 other arranger of health services, which shall be deemed the policyholder,
30 covering patients, donors or surrogates provided that the coverage is not
31 made a condition of receiving care.

32 11. Under a policy or contract issued to a bank, financial vendor
33 or other financial institution, or to a parent holding company or to the
34 trustee, trustees or agent designated by one or more banks, financial
35 vendors or other financial institutions, which shall be deemed the
36 policyholder, covering account holders, debtors, guarantors or purchasers.

37 12. Under a policy or contract issued to an incorporated or
38 unincorporated association of persons having a common interest or calling,
39 which association shall be deemed the policyholder, formed for purposes
40 other than obtaining insurance, covering members of such association.

41 13. Under a policy or contract issued to a travel agency or other
42 organization that provides travel-related services, which agency or
43 organization shall be deemed the policyholder, to cover all persons for
44 whom travel-related services are provided.

1 14. UNDER A POLICY OR CONTRACT ISSUED TO A QUALIFIED MARKETPLACE
2 PLATFORM, WHICH IS DEEMED THE POLICYHOLDER, COVERING QUALIFIED MARKETPLACE
3 CONTRACTORS THAT HAVE EXECUTED A WRITTEN CONTRACT WITH THE QUALIFIED
4 MARKETPLACE PLATFORM. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFIED
5 MARKETPLACE CONTRACTOR" AND "QUALIFIED MARKETPLACE PLATFORM" HAVE THE SAME
6 MEANINGS PRESCRIBED IN SECTION 20-485.

7 ~~14.~~ 15. Under a policy or contract that is issued to any other
8 substantially similar group and that, in the discretion of the director,
9 may be subject to the issuance of a blanket disability policy or
10 contract. The director may exercise discretion on an individual risk
11 basis or class of risks, or both.

12 B. An individual application need not be required from a person
13 covered under a blanket disability policy or contract, nor shall it be
14 necessary for the insurer to furnish each person with a certificate.

15 C. All benefits under any blanket disability policy shall be
16 payable to the person insured, or to the insured's designated beneficiary
17 or beneficiaries, or to the insured's estate, except that if the person
18 insured is a minor, such benefits may be made payable to the insured's
19 parent or guardian or any other person actually supporting the insured,
20 and except that the policy may provide that all or any portion of any
21 indemnities provided by any such policy on account of hospital, nursing,
22 medical or surgical services, at the insurer's option, may be paid
23 directly to the hospital or person rendering such services, but the policy
24 may not require that the service be rendered by a particular hospital or
25 person. Payment so made shall discharge the insurer's obligation with
26 respect to the amount of insurance so paid.

27 D. Nothing contained in this section shall be deemed to affect the
28 legal liability of policyholders for the death of or injury to any member
29 of the group.

30 E. Any policy or contract, except accidental death and
31 dismemberment, applied for that provides family coverage, as to such
32 coverage of family members, shall also provide that the benefits
33 applicable for children shall be payable with respect to a newly born
34 child of the insured from the instant of such child's birth, to a child
35 adopted by the insured, regardless of the age at which the child was
36 adopted, and to a child who has been placed for adoption with the insured
37 and for whom the application and approval procedures for adoption pursuant
38 to section 8-105 or 8-108 have been completed to the same extent that such
39 coverage applies to other members of the family. The coverage for newly
40 born or adopted children or children placed for adoption shall include
41 coverage of injury or sickness including necessary care and treatment of
42 medically diagnosed congenital defects and birth abnormalities. If
43 payment of a specific premium is required to provide coverage for a child,
44 the policy or contract may require that notification of birth, adoption or
45 adoption placement of the child and payment of the required premium must

1 be furnished to the insurer within thirty-one days after the date of
2 birth, adoption or adoption placement in order to have the coverage
3 continue beyond the thirty-one day period.

4 F. Each policy or contract shall be so written that the insurer
5 shall pay benefits:

6 1. For performance of any surgical service that is covered by the
7 terms of such contract, regardless of the place of service.

8 2. For any home health services that are performed by a licensed
9 home health agency and that a physician has prescribed in lieu of hospital
10 services, as defined by the director, providing the hospital services
11 would have been covered.

12 3. For any diagnostic service that a physician has performed
13 outside a hospital in lieu of inpatient service, providing the inpatient
14 service would have been covered.

15 4. For any service performed in a hospital's outpatient department
16 or in a freestanding surgical facility, providing such service would have
17 been covered if performed as an inpatient service.

18 G. A blanket disability insurance policy that provides coverage for
19 the surgical expense of a mastectomy shall also provide coverage
20 incidental to the patient's covered mastectomy for the expense of
21 reconstructive surgery of the breast on which the mastectomy was
22 performed, surgery and reconstruction of the other breast to produce a
23 symmetrical appearance, prostheses, treatment of physical complications
24 for all stages of the mastectomy, including lymphedemas, and at least two
25 external postoperative prostheses subject to all of the terms and
26 conditions of the policy.

27 H. A contract that provides coverage for surgical services for a
28 mastectomy shall also provide coverage for mammography screening performed
29 on dedicated equipment for diagnostic purposes on referral by a patient's
30 physician, subject to all of the terms and conditions of the policy and
31 according to the following guidelines:

32 1. A baseline mammogram for a woman from age thirty-five to
33 thirty-nine.

34 2. A mammogram for a woman from age forty to forty-nine every two
35 years or more frequently based on the recommendation of the woman's
36 physician.

37 3. A mammogram every year for a woman fifty years of age and over.

38 I. Any contract that is issued to the insured and that provides
39 coverage for maternity benefits shall also provide that the maternity
40 benefits apply to the costs of the birth of any child legally adopted by
41 the insured if all the following are true:

42 1. The child is adopted within one year of birth.

43 2. The insured is legally obligated to pay the costs of birth.

44 3. All preexisting conditions and other limitations have been met
45 by the insured.

1 4. The insured has notified the insurer of his acceptability to
2 adopt children pursuant to section 8-105, within sixty days after such
3 approval or within sixty days after a change in insurance policies, plans
4 or companies.

5 J. The coverage prescribed by subsection I of this section is
6 excess to any other coverage the natural mother may have for maternity
7 benefits except coverage made available to persons pursuant to title 36,
8 chapter 29, ~~but not including coverage made available to persons defined~~
9 ~~as eligible under section 36-2901, paragraph 6, subdivisions (b), (c), (d)~~
10 ~~and (e)~~. If such other coverage exists the agency, attorney or individual
11 arranging the adoption shall make arrangements for the insurance to pay
12 those costs that may be covered under that policy and shall advise the
13 adopting parent in writing of the existence and extent of the coverage
14 without disclosing any confidential information such as the identity of
15 the natural parent. The insured adopting parents shall notify their
16 insurer of the existence and extent of the other coverage.

17 K. Any contract that provides maternity benefits shall not restrict
18 benefits for any hospital length of stay in connection with childbirth for
19 the mother or the newborn child to less than forty-eight hours following a
20 normal vaginal delivery or ninety-six hours following a cesarean section.
21 The contract shall not require the provider to obtain authorization from
22 the insurer for prescribing the minimum length of stay required by this
23 subsection. The contract may provide that an attending provider in
24 consultation with the mother may discharge the mother or the newborn child
25 before the expiration of the minimum length of stay required by this
26 subsection. The insurer shall not:

27 1. Deny the mother or the newborn child eligibility or continued
28 eligibility to enroll or to renew coverage under the terms of the contract
29 solely for the purpose of avoiding the requirements of this subsection.

30 2. Provide monetary payments or rebates to mothers to encourage
31 those mothers to accept less than the minimum protections available
32 pursuant to this subsection.

33 3. Penalize or otherwise reduce or limit the reimbursement of an
34 attending provider because that provider provided care to any insured
35 under the contract in accordance with this subsection.

36 4. Provide monetary or other incentives to an attending provider to
37 induce that provider to provide care to an insured under the contract in a
38 manner that is inconsistent with this subsection.

39 5. Except as described in subsection L of this section, restrict
40 benefits for any portion of a period within the minimum length of stay in
41 a manner that is less favorable than the benefits provided for any
42 preceding portion of that stay.

- 1 L. Nothing in subsection K of this section:
2 1. Requires a mother to give birth in a hospital or to stay in the
3 hospital for a fixed period of time following the birth of the child.
4 2. Prevents an insurer from imposing deductibles, coinsurance or
5 other cost sharing in relation to benefits for hospital lengths of stay in
6 connection with childbirth for a mother or a newborn child under the
7 contract, except that any coinsurance or other cost sharing for any
8 portion of a period within a hospital length of stay required pursuant to
9 subsection K of this section shall not be greater than the coinsurance or
10 cost sharing for any preceding portion of that stay.
11 3. Prevents an insurer from negotiating the level and type of
12 reimbursement with a provider for care provided in accordance with
13 subsection K of this section.
14 M. Any contract that provides coverage for diabetes shall also
15 provide coverage for equipment and supplies that are medically necessary
16 and that are prescribed by a health care provider including:
17 1. Blood glucose monitors.
18 2. Blood glucose monitors for the legally blind.
19 3. Test strips for glucose monitors and visual reading and urine
20 testing strips.
21 4. Insulin preparations and glucagon.
22 5. Insulin cartridges.
23 6. Drawing up devices and monitors for the visually impaired.
24 7. Injection aids.
25 8. Insulin cartridges for the legally blind.
26 9. Syringes and lancets including automatic lancing devices.
27 10. Prescribed oral agents for controlling blood sugar that are
28 included on the plan formulary.
29 11. To the extent coverage is required under medicare, podiatric
30 appliances for prevention of complications associated with diabetes.
31 12. Any other device, medication, equipment or supply for which
32 coverage is required under medicare from and after January 1, 1999. The
33 coverage required in this paragraph is effective six months after the
34 coverage is required under medicare.
35 N. Nothing in subsection M of this section prohibits a blanket
36 disability insurer from imposing deductibles, coinsurance or other cost
37 sharing in relation to benefits for equipment or supplies for the
38 treatment of diabetes.
39 O. Any contract that provides coverage for prescription drugs shall
40 not limit or exclude coverage for any prescription drug prescribed for the
41 treatment of cancer on the basis that the prescription drug has not been
42 approved by the United States food and drug administration for the
43 treatment of the specific type of cancer for which the prescription drug
44 has been prescribed, if the prescription drug has been recognized as safe
45 and effective for treatment of that specific type of cancer in one or more

1 of the standard medical reference compendia prescribed in subsection P of
2 this section or medical literature that meets the criteria prescribed in
3 subsection P of this section. The coverage required under this subsection
4 includes covered medically necessary services associated with the
5 administration of the prescription drug. This subsection does not:

6 1. Require coverage of any prescription drug used in the treatment
7 of a type of cancer if the United States food and drug administration has
8 determined that the prescription drug is contraindicated for that type of
9 cancer.

10 2. Require coverage for any experimental prescription drug that is
11 not approved for any indication by the United States food and drug
12 administration.

13 3. Alter any law with regard to provisions that limit the coverage
14 of prescription drugs that have not been approved by the United States
15 food and drug administration.

16 4. Require reimbursement or coverage for any prescription drug that
17 is not included in the drug formulary or list of covered prescription
18 drugs specified in the contract.

19 5. Prohibit a contract from limiting or excluding coverage of a
20 prescription drug, if the decision to limit or exclude coverage of the
21 prescription drug is not based primarily on the coverage of prescription
22 drugs required by this section.

23 6. Prohibit the use of deductibles, coinsurance, copayments or
24 other cost sharing in relation to drug benefits and related medical
25 benefits offered.

26 P. For the purposes of subsection O of this section:

27 1. The acceptable standard medical reference compendia are the
28 following:

29 (a) The American hospital formulary service drug information, a
30 publication of the American society of health system pharmacists.

31 (b) The national comprehensive cancer network drugs and biologics
32 compendium.

33 (c) Thomson Micromedex compendium DrugDex.

34 (d) Elsevier gold standard's clinical pharmacology compendium.

35 (e) Other authoritative compendia as identified by the secretary of
36 the United States department of health and human services.

37 2. Medical literature may be accepted if all of the following
38 apply:

39 (a) At least two articles from major peer reviewed professional
40 medical journals have recognized, based on scientific or medical criteria,
41 the drug's safety and effectiveness for treatment of the indication for
42 which the drug has been prescribed.

1 (b) No article from a major peer reviewed professional medical
2 journal has concluded, based on scientific or medical criteria, that the
3 drug is unsafe or ineffective or that the drug's safety and effectiveness
4 cannot be determined for the treatment of the indication for which the
5 drug has been prescribed.

6 (c) The literature meets the uniform requirements for manuscripts
7 submitted to biomedical journals established by the international
8 committee of medical journal editors or is published in a journal
9 specified by the United States department of health and human services as
10 acceptable peer reviewed medical literature pursuant to section
11 186(t)(2)(B) of the social security act (42 United States Code section
12 1395x(t)(2)(B)).

13 Q. Any contract that is offered by a blanket disability insurer and
14 that contains a prescription drug benefit shall provide coverage of
15 medical foods to treat inherited metabolic disorders as provided by this
16 section.

17 R. The metabolic disorders triggering medical foods coverage under
18 this section shall:

19 1. Be part of the newborn screening program prescribed in section
20 36-694.

21 2. Involve amino acid, carbohydrate or fat metabolism.

22 3. Have medically standard methods of diagnosis, treatment and
23 monitoring including quantification of metabolites in blood, urine or
24 spinal fluid or enzyme or DNA confirmation in tissues.

25 4. Require specially processed or treated medical foods that are
26 generally available only under the supervision and direction of a
27 physician who is licensed pursuant to title 32, chapter 13 or 17 or a
28 registered nurse practitioner who is licensed pursuant to title 32,
29 chapter 15, that must be consumed throughout life and without which the
30 person may suffer serious mental or physical impairment.

31 S. Medical foods eligible for coverage under this section shall be
32 prescribed or ordered under the supervision of a physician licensed
33 pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner
34 who is licensed pursuant to title 32, chapter 15 as medically necessary
35 for the therapeutic treatment of an inherited metabolic disease.

36 T. An insurer shall cover at least fifty ~~per cent~~ PERCENT of the
37 cost of medical foods prescribed to treat inherited metabolic disorders
38 and covered pursuant to this section. An insurer may limit the maximum
39 annual benefit for medical foods under this section to ~~five thousand~~
40 ~~dollars~~ \$5,000, which applies to the cost of all prescribed modified low
41 protein foods and metabolic formula.

42 U. Any blanket disability policy that provides coverage for:

43 1. Prescription drugs shall also provide coverage for any
44 prescribed drug or device that is approved by the United States food and
45 drug administration for use as a contraceptive. A blanket disability

1 insurer may use a drug formulary, multitiered drug formulary or list but
2 that formulary or list shall include oral, implant and injectable
3 contraceptive drugs, intrauterine devices and prescription barrier methods
4 if the blanket disability insurer does not impose deductibles,
5 coinsurance, copayments or other cost containment measures for
6 contraceptive drugs that are greater than the deductibles, coinsurance,
7 copayments or other cost containment measures for other drugs on the same
8 level of the formulary or list.

9 2. Outpatient health care services shall also provide coverage for
10 outpatient contraceptive services. For the purposes of this paragraph,
11 "outpatient contraceptive services" means consultations, examinations,
12 procedures and medical services provided on an outpatient basis and
13 related to the use of approved United States food and drug administration
14 prescription contraceptive methods to prevent unintended pregnancies.

15 V. Notwithstanding subsection U of this section, a religiously
16 affiliated employer may require that the insurer provide a blanket
17 disability policy without coverage for specific items or services required
18 under subsection U of this section because providing or paying for
19 coverage of the specific items or services is contrary to the religious
20 beliefs of the religiously affiliated employer offering the plan. If a
21 religiously affiliated employer objects to providing coverage for specific
22 items or services required under subsection U of this section, a written
23 affidavit shall be filed with the insurer stating the objection. On
24 receipt of the affidavit, the insurer shall issue to the religiously
25 affiliated employer a blanket disability policy that excludes coverage for
26 specific items or services required under subsection U of this section.
27 The insurer shall retain the affidavit for the duration of the blanket
28 disability policy and any renewals of the policy. This subsection shall
29 not exclude coverage for prescription contraceptive methods ordered by a
30 health care provider with prescriptive authority for medical indications
31 other than for contraceptive, abortifacient, abortion or sterilization
32 purposes. A religiously affiliated employer offering the policy may state
33 religious beliefs in its affidavit and may require the insured to first
34 pay for the prescription and then submit a claim to the insurer along with
35 evidence that the prescription is not for a purpose covered by the
36 objection. An insurer may charge an administrative fee for handling these
37 claims under this subsection.

38 W. Subsection V of this section does not authorize a religiously
39 affiliated employer to obtain an employee's protected health information
40 or to violate the health insurance portability and accountability act of
41 1996 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted
42 pursuant to that act.

43 X. Subsection V of this section shall not be construed to restrict
44 or limit any protections against employment discrimination that are
45 prescribed in federal or state law.

1 Y. For the purposes of:

2 1. This section:

3 (a) "Inherited metabolic disorder" means a disease caused by an
4 inherited abnormality of body chemistry and includes a disease tested
5 under the newborn screening program prescribed in section 36-694.

6 (b) "Medical foods" means modified low protein foods and metabolic
7 formula.

8 (c) "Metabolic formula" means foods that are all of the following:

9 (i) Formulated to be consumed or administered enterally under the
10 supervision of a physician who is licensed pursuant to title 32, chapter
11 13 or 17 or a registered nurse practitioner who is licensed pursuant to
12 title 32, chapter 15.

13 (ii) Processed or formulated to be deficient in one or more of the
14 nutrients present in typical foodstuffs.

15 (iii) Administered for the medical and nutritional management of a
16 person who has limited capacity to metabolize foodstuffs or certain
17 nutrients contained in the foodstuffs or who has other specific nutrient
18 requirements as established by medical evaluation.

19 (iv) Essential to a person's optimal growth, health and metabolic
20 homeostasis.

21 (d) "Modified low protein foods" means foods that are all of the
22 following:

23 (i) Formulated to be consumed or administered enterally under the
24 supervision of a physician who is licensed pursuant to title 32, chapter
25 13 or 17 or a registered nurse practitioner who is licensed pursuant to
26 title 32, chapter 15.

27 (ii) Processed or formulated to contain less than one gram of
28 protein per unit of serving, but does not include a natural food that is
29 naturally low in protein.

30 (iii) Administered for the medical and nutritional management of a
31 person who has limited capacity to metabolize foodstuffs or certain
32 nutrients contained in the foodstuffs or who has other specific nutrient
33 requirements as established by medical evaluation.

34 (iv) Essential to a person's optimal growth, health and metabolic
35 homeostasis.

36 2. Subsection E of this section, the term "child", for purposes of
37 initial coverage of an adopted child or a child placed for adoption but
38 not for purposes of termination of coverage of such child, means a person
39 under eighteen years of age.

40 3. Subsections V and W of this section, "religiously affiliated
41 employer" means either:

42 (a) An entity for which all of the following apply:

43 (i) The entity primarily employs persons who share the religious
44 tenets of the entity.

1 (ii) The entity serves primarily persons who share the religious
2 tenets of the entity.

3 (iii) The entity is a nonprofit organization as described in
4 section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as
5 amended.

6 (b) An entity whose articles of incorporation clearly state that it
7 is a religiously motivated organization and whose religious beliefs are
8 central to the organization's operating principles.

APPROVED BY THE GOVERNOR APRIL 23, 2019.

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