

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

**CHAPTER 80**  
**SENATE BILL 1397**

AN ACT

AMENDING TITLE 20, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 20-123; RELATING TO HEALTH CARE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 20, chapter 1, article 1, Arizona Revised  
3 Statutes, is amended by adding section 20-123, to read:

4 20-123. Guaranteed availability; preexisting condition  
5 exclusions prohibited; open enrollment periods;  
6 rules; definitions

7 A. EVERY HEALTH CARE INSURER THAT OFFERS AN INDIVIDUAL HEALTH PLAN  
8 IN THIS STATE SHALL PROVIDE GUARANTEED AVAILABILITY OF COVERAGE TO AN  
9 ELIGIBLE INDIVIDUAL WHO DESIRES TO ENROLL IN HEALTH INSURANCE COVERAGE AND  
10 SHALL NOT:

11 1. DECLINE TO OFFER THAT COVERAGE TO, OR DENY ENROLLMENT OF, THAT  
12 INDIVIDUAL.

13 2. IMPOSE ANY PREEXISTING CONDITION EXCLUSION WITH RESPECT TO THE  
14 ISSUANCE, RENEWAL OR SCOPE OF BENEFITS PROVIDED IN SUCH COVERAGE.

15 B. A HEALTH CARE INSURER MAY RESTRICT ENROLLMENT IN INDIVIDUAL  
16 HEALTH PLANS TO OPEN ENROLLMENT PERIODS AND SPECIAL ENROLLMENT PERIODS TO  
17 THE EXTENT THE PERIODS ARE NOT INCONSISTENT WITH APPLICABLE FEDERAL LAW.

18 C. THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND FINANCIAL  
19 INSTITUTIONS SHALL ADOPT RULES ESTABLISHING MINIMUM OPEN ENROLLMENT DATES  
20 AND MINIMUM CRITERIA FOR SPECIAL ENROLLMENT PERIODS FOR ALL INDIVIDUAL  
21 HEALTH PLANS OFFERED IN THIS STATE.

22 D. THIS SECTION DOES NOT APPLY TO:

23 1. GRANDFATHERED HEALTH PLAN COVERAGE.

24 2. LIMITED BENEFIT COVERAGE.

25 E. FOR THE PURPOSES OF THIS SECTION:

26 1. "GRANDFATHERED HEALTH PLAN COVERAGE" MEANS COVERAGE PROVIDED BY  
27 EITHER:

28 (a) A HEALTH CARE INSURER UNDER A HEALTH PLAN IN WHICH AN  
29 INDIVIDUAL WAS ENROLLED ON MARCH 23, 2010 AND HAS MAINTAINED GRANDFATHERED  
30 STATUS SINCE THAT DATE.

31 (b) A HEALTH CARE INSURER UNDER A TRANSITIONAL HEALTH PLAN.

32 2. "HEALTH CARE INSURER" MEANS A DISABILITY INSURER, GROUP  
33 DISABILITY INSURER, BLANKET DISABILITY INSURER, HEALTH CARE SERVICES  
34 ORGANIZATION, HOSPITAL SERVICE CORPORATION, MEDICAL SERVICE CORPORATION OR  
35 HOSPITAL, MEDICAL, DENTAL AND OPTOMETRIC SERVICE CORPORATION.

36 3. "INDIVIDUAL HEALTH PLAN" MEANS A POLICY, CONTRACT OR EVIDENCE OF  
37 COVERAGE THAT PROVIDES HEALTH CARE SERVICES AND BENEFITS TO AN INDIVIDUAL  
38 AND THAT IS ISSUED BY A HEALTH CARE INSURER.

39 4. "PREEXISTING CONDITION EXCLUSION" MEANS A LIMIT OR EXCLUSION OF  
40 BENEFITS RELATING TO A MEDICAL CONDITION BASED ON THE FACT THAT THE  
41 CONDITION WAS PRESENT BEFORE THE DATE OF ENROLLMENT FOR INSURANCE  
42 COVERAGE, REGARDLESS OF WHETHER ANY MEDICAL ADVICE, DIAGNOSIS, CARE OR  
43 TREATMENT WAS RECOMMENDED OR RECEIVED BEFORE THAT DATE.

44 5. "TRANSITIONAL HEALTH PLAN" MEANS AN INDIVIDUAL OR SMALL GROUP  
45 HEALTH PLAN ESTABLISHED AFTER MARCH 23, 2010 BUT BEFORE MARCH 23, 2013.

1           Sec. 2. Conditional enactment; notice

2           A. Section 20-123, Arizona Revised Statutes, as added by this act,  
3 does not become effective unless on or before June 30, 2023 a court of  
4 competent jurisdiction rules that the patient protection and affordable  
5 care act (P.L. 111-148) is unconstitutional and the judgment of that court  
6 becomes final and definitive.

7           B. The attorney general shall notify in writing the director of the  
8 Arizona legislative council on or before August 1, 2023 either:

- 9           1. Of the date on which the condition was met.  
10          2. That the condition was not met.

APPROVED BY THE GOVERNOR JUNE 5, 2020.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 5, 2020.