



## ARIZONA STATE SENATE

### *Fifty-Fourth Legislature, Second Regular Session*

#### FACT SHEET FOR S.B. 1397

##### insurance; preexisting condition exclusions; prohibition

###### Purpose

Conditionally, on a ruling that the Patient Protection and Affordable Care Act (ACA) is unconstitutional, guarantees eligible individuals the availability of individual health plan coverage, except for grandfathered health plan coverage or limited benefit coverage, and prohibits health care insurers who offer such coverage from imposing any preexisting condition exclusions.

###### Background

Enacted in 2010, the ACA requires health care insurers to cover health care services within a standard set of benefits and prohibits group and individual health insurance plans from imposing any preexisting condition exclusions. Grandfathered health plans purchased on or before March 23, 2010, are not subject to the prohibition on preexisting conditions and other applicable ACA standards. The ACA effectively allows states to adopt and enforce laws that provide greater consumer protections than the ACA, but the ACA preempts any state law that does not meet the federal minimum standards ([ACA](#)).

On December 14, 2018, the U.S. District Court for the Northern District of Texas declared the individual mandate of the ACA unconstitutional and the remaining provisions of the ACA inseverable from the mandate and thus invalid ([Texas v. Azar](#)). In response to the ruling, the U.S. Department of Health and Human Services stated that the *Texas v. Azar* decision is not to be an injunction that halts the enforcement of the law and not a final judgment ([U.S. HHS](#)).

*Limited benefit coverage* is an insurance policy that is designed, advertised and marketed to supplement major medical insurance and that includes accident only, dental only, vision only, disability income only, fixed or hospital indemnity, specified disease insurance, credit insurance or Taft-Hartley trusts ([A.R.S. § 20-1137](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

###### Provisions

1. Requires health care insurers offering individual health plans in Arizona to provide guaranteed availability of coverage to eligible individuals.
2. Prohibits health care insurers who offer individual health plans in Arizona from:
  - a) declining to offer coverage to any individual;
  - b) denying enrollment of any individual; or
  - c) imposing any preexisting condition exclusions.

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3. Permits health care insurers to restrict enrollment in individual health plans to open enrollment and special enrollment periods, consistent with applicable federal law.
4. Directs the Director of the Arizona Department of Insurance and Financial Institutions to adopt rules regarding minimum open enrollment dates and special enrollment period criteria for individual health plans offered in Arizona.
5. Specifies that grandfathered health plan coverage and limited benefit coverage are not subject to the prohibition on preexisting condition exclusions and other prescribed requirements.
6. Defines *health care insurer* as a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation.
7. Defines *individual health plan* as a policy, contract or evidence of coverage issued by a health care insurer that provides health care services and benefits to an individual.
8. Defines *preexisting condition exclusion* as a limit or exclusion of benefits relating to a medical condition based on the fact that the condition was present before the date of enrollment for insurance coverage, regardless of whether any medical advice, diagnosis, care or treatment was recommended or received before that date.
9. Defines *grandfathered health plan coverage* as coverage provided by a health care insurer under:
  - a) a health plan in which an individual was enrolled on March 23, 2010, and has maintained grandfathered status since that date; or
  - b) a transitional health plan.
10. Defines *transitional health plan* as an individual or small group health plan established between March 23, 2010, and March 23, 2013.
11. Conditions the enactment of this legislation on a court of competent jurisdiction ruling that the ACA is unconstitutional and the judgement of that ruling becomes final and definitive by June 30, 2023.
12. Requires, by August 1, 2023, the Attorney General to notify the Director of the Arizona Legislative Council of the date on which the conditional enactment was met, or that the conditional enactment was not met.
13. Becomes effective on the general effective date, subject to the provisions of the conditional enactment.

Prepared by Senate Research

February 3, 2020

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