

REFERENCE TITLE: **insurance; preexisting condition exclusions; prohibition**

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

SB 1397

Introduced by
Senators Mesnard: Allen S, Borrelli, Boyer, Brophy McGee, Carter, Fann,
Gowan, Gray, Kerr, Leach, Pace, Pratt, Ugenti-Rita; Representative
Weninger

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.