

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Actuarial Services

Group Life, Group Health and Blanket Insurance: General Standards for Contract Provisions

Proposed Amendments: N.J.A.C. 11:4-42.1 through 42.5, 42.7, 42.8, 42.9 and 42.13

Proposed New Rules: N.J.A.C. 11:4-42.14, 42.15 and 42.16

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-15, 17:17-8.1 and 17B:27-26 et seq.; P.L. 2005, c. 190 (N.J.S.A. 17B:27-68 et seq.); and P.L. 2006, c. 103

Calendar Reference: See Summary below for explanation of exceptions to calendar requirement.

Proposal Number: PRN 2007-307.

Submit comments by November 30, 2007 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (DOBI) is proposing amendments to N.J.A.C. 11:4-42, Group Life, Group Health and Blanket Insurance: General Standards for Contract Provisions. Some of the proposed amendments are in response to revisions of the statutes governing group life insurance in New Jersey. On August 18, 2005, P.L. 2005, c. 190 (Chapter

190) was enacted. Chapter 190, codified at N.J.S.A. 17B:27-68 through 75, repealed N.J.S.A. 17B:27-1 through 25, inclusive.

In addition, some of the amendments to N.J.A.C. 11:4-42 being proposed are in response to evolution in product design and practices in the group insurance market. Finally, a few of the amendments being proposed are strictly of an editorial nature, setting forth grammatical corrections and clarifications.

At N.J.A.C. 11:4-42.1(b), the Department is proposing to remove a reference to April 15, 1996 in subsection (b). Insurers originally had to come into compliance with the subchapter by that date. Eleven years later, the date reference is no longer necessary.

At N.J.A.C. 11:4-42.2, the Department is proposing to amend several definitions, and add a new definition. The Department is amending the definition of “group health insurance” to specify that the term does not include individual insurance policies issued pursuant to N.J.S.A. 17B:26-2a(3) (in essence, coverage issued on a non-group basis to cover a family unit). The Department believes this will clarify that individual insurance policies covering members of a family do not constitute group insurance policies.

The Department is amending the definition of “group life insurance” by deleting citations to the statutes repealed by Chapter 190, and inserting citations to the appropriate substitute statutes.

The Department is proposing to amend the definition of “other income” to allow insurers to include retirement benefits and supplementary benefits for family members received under certain circumstances as other income. The types of income being added did not exist or were uncommon at the time that the definition was initially adopted. The amendments will conform the rule to existing practice. The Department is also amending the definition to exclude

secondary employment income from consideration in determining disability benefits. These proposed amendments are in response to market activity and questions the Department has received on the issue of offsets of benefits due to other income.

The Department is proposing to add a definition of “preapproval” when used in relation to group disability benefits. The Department is proposing this new term and definition because the term appears in a proposed amendment to N.J.A.C. 11:4-42.8. The term is commonly used in the health insurance industry and the proposed definition reflects its commonly understood meaning. The Department believes the definition clarifies what is considered preapproval for purposes of these rules and, thus, what is or is not permissible in the making of group disability benefit determinations.

At N.J.A.C. 11:4-42.3, the Department is proposing amendments to subsection (b) to clarify when insurers may use provisions that are typically found in individual life and health insurance policies in group life and health insurance policies. Individual policy provisions may be used only if the Department determines that they are appropriate for the coverage provided. In making the determination, the Department may apply the same standards to the group policies as are applied to the individual policies. In addition, the Department proposes to remove from N.J.A.C. 11:4-42.3(b)1 the reference to the Commissioner reviewing “such provisions” to clarify that paragraph with respect to the general standards for filing of policy forms.

At N.J.A.C. 11:4-42.4, the Department is proposing several amendments. The Department is proposing a new subsection (b) which would require all forms filed with the Department to contain a unique identifying form number in the lower left-hand corner of the first page, so that both the Department and insurers may more readily identify and locate the forms. Current subsections (b) through (g) would be recodified as (c) through (h).

The Department is proposing to add a new paragraph 2 to recodified subsection (d) to prohibit insurers from requiring medical treatment other than that generally accepted by the medical community whenever an insurer requires an insured to undergo medical treatments for a disability in order to maintain pertinent benefits. For example, an insured could not be required to undergo an experimental treatment as a condition to the continued receipt of disability benefits.

In proposed recodified subsection (f), the Department is proposing to replace the word “and” with the word “or” so that the phrase “accidental death and dismemberment” benefits would become “accidental death or dismemberment” benefits. The disjunctive more appropriately reflects the current phraseology.

The Department is proposing to amend N.J.A.C. 11:4-42.5(b), which currently is inconsistent with N.J.A.C. 11:4-42.10. The amendment would delete the phrase in subsection (b) which reads: “while the third party was intoxicated or under the influence of narcotics,” resulting in the rule providing that insurers shall not limit or exclude benefits for losses caused by third parties.

The Department is proposing to delete subsection (e) and recodify the remaining subsections accordingly. Subsection (e) currently prohibits insurers from providing life insurance to an insured’s domestic partner. With the enactment of P.L. 2003, c. 246, this prohibition is no longer appropriate.

At proposed recodified N.J.A.C. 11:4-42.5(f) (currently, subsection (g)), the Department is proposing to broaden the existing language of the provision. The current text prohibits insurers from limiting or excluding from group policies and certificates providing disability income coverage benefits for disabilities resulting from elective surgery or other medical

treatment. As proposed, the provision would prohibit insurers from limiting or excluding health insurance benefits for losses resulting from complications from elective medical procedures, including surgeries, in all blanket policies and certificates and group policies and certificates providing health insurance which, pursuant to N.J.S.A. 17B:17-4, includes plans providing disability income benefits. The Department is proposing this amendment for public policy reasons in response to evolution in the health insurance market.

At proposed recodified N.J.A.C. 11:4-42.5(g) (currently, subsection (h)), the Department is proposing to add language that more appropriately expresses the purpose of the paragraph, which is to prohibit insurers from requiring applicants for accident only coverage to submit evidence of insurability.

The Department is proposing to add six new provisions to N.J.A.C. 11:4-42.5. At new paragraph 2 in recodified N.J.A.C. 11:4-42.5(i) (currently, subsection (j)), the Department is proposing to prohibit group life insurance benefits from terminating solely because a covered person enters the armed forces of any country while the person continues to maintain eligibility under the policy within the person's eligible class. The proposed language would prohibit life coverage from terminating when the covered person enters the military on an approved leave of absence while other covered persons also on an approved leave of absence continue to be covered. Current paragraph (j)1 requires that exclusions applied to military status be administered in accordance with N.J.A.C. 11:4-41.4(a)3i. This regulation limits the conditions under which a life insurance benefit can be excluded from coverage for a member of the military, a non-combatant civilian, and a civilian pursuant to a war risk exclusion. The Department considers a termination of coverage solely upon entering military service to be an inappropriate circumvention of the requirements imposed on war risk exclusions.

Proposed new subsection (j) would prohibit insurers from eliminating or limiting disability income benefits for self-reported or special conditions solely on the basis that such conditions are not readily verifiable through commonly accepted tests, procedures or clinical examinations. Proposed new subsection (k) would reiterate that policies with life insurance benefits cannot contain claim provisions that are more restrictive than statutory provisions dealing with death claims. Proposed new subsection (l) would prohibit an insurer from requiring mandatory binding arbitration as a prerequisite to exercising other legal rights. Proposed new subsection (m) would prohibit the insurer from reserving to itself sole discretion to interpret the terms of the policy. In each of these instances, the proposed language would codify existing standards utilized by the Department in its review of forms, and clarify the Department's position on these issues. Authority for these changes is provided by N.J.S.A. 17B:27-49 and 74, which empower the Commissioner to adopt rules to ensure that provisions in blanket insurance policies and group health and life insurance policies are not unjust, unfair, inequitable, misleading or contrary to the law or public policy of this state. Proposed new subsection (n) provides that, in accordance with the recently enacted New Jersey Civil Union Act, P.L. 2006, c. 103, civil union couples shall have the same benefits and protections as are granted to marital spouses in blanket and group policies and certificates providing life or health insurance.

At N.J.A.C. 11:4-42.7(a), the Department is proposing amendments to more appropriately address distinctions between long term and short term disability policies and their respective benefits, which the current rule does not do. In addition, the Department is proposing to add N.J.A.C. 11:4-42.7(d) to clarify that insurers are subject to restrictions on the use of secondary and other income for purposes of reducing an insured's disability benefits.

The Department is proposing amendments to N.J.A.C. 11:4-42.8 to clarify certain public policy standards. At N.J.A.C. 11:4-42.8(a), the Department is proposing to add the phrase “hospital or medical” before the term “benefits” to clarify what types of benefits subject to preauthorization are governed by the requirements set forth in paragraphs (a)1 through 5. In addition, the Department is proposing a new provision at N.J.A.C. 11:4-42.5(d) to clarify that policies providing disability income benefits must comply with the requirements set forth at N.J.A.C. 11:4-42.8(a)1 through 3, as well as at N.J.A.C. 11:4-42.8(b) and (c). Such policies need not comply with N.J.A.C. 11:4-42.8(a)4 and 5 because those paragraphs deal with benefits related to the treatment of insureds’ medical conditions, not with the loss of income benefits provided by disability insurance.

At N.J.A.C. 11:4-42.9(b), the Department is proposing amendments to include a reference to N.J.S.A. 17B:27-55, which specifically addresses pre-existing condition exclusions. As proposed, the amended rule would indicate that, unless otherwise specifically provided in that law or any other applicable statute, on group life and health policies insurers could only limit or exclude benefits for losses attributable to pre-existing conditions that occur within the first 24 months following the policy’s effective date.

At N.J.A.C. 11:4-42.13(a), the Department is proposing to revise a citation to a repealed law to the applicable recently-enacted statutory provision. In addition, the Department is proposing language to replace the term “employee” with the phrase “covered persons” in two places in N.J.A.C. 11:4-42.13(b) for consistency, and to clarify when a conversion right is triggered.

The Department is proposing new rule N.J.A.C. 11:4-42.14 to establish requirements for group life plans that are funded primarily by the individual certificateholder. It is the

Department's position that voluntary plans of group life insurance that are funded by the certificateholder are, in many important respects, very similar to individual life insurance plans administered on a payroll deduction basis. Consequently, the Department believes that individual certificateholders on such group life policies warrant some of the same protections that are afforded to insureds on such individual life plans. Accordingly, with respect to voluntary group life plans that are administered in that way, where the certificateholder contributes 75 percent or more of the premium or charges, new N.J.A.C. 11:4-42.14(a)1 requires that the certificateholder have all ownership rights in the insurance and in any cash or loan values. Proposed N.J.A.C. 11:4-42.14(a)2 requires that the provisions of N.J.S.A. 17B:25-1 et seq. and related rules for individual life insurance be applied to group life plans funded and administered in that manner. N.J.A.C. 11:4-42.14(a)3 further requires that, upon the termination of the coverage for any reason, any cash value shall be paid to the certificateholder. New N.J.A.C. 11:4-42.14(a)4 through 9 provide for the optional continuation of the certificateholder's coverage by the insurer through a group life mechanism, as an alternative to the certificateholder converting to an individual policy. This alternative recognizes the permanent nature of the coverage and that continuation of the original insurance may be more advantageous to the certificateholder than converting to a new policy. The proposed regulations also provide for a future conversion to an individual policy by the certificateholder. These provisions are consistent with those applicable to individual life insurance plans administered, for reasons of efficiency, through an entity with whom the insured individuals have a relationship, such as an alumni or trade association.

N.J.S.A. 17B:27-68a(1) allows the proceeds of a group life plan to be paid to an employer when those proceeds are used to fund employee benefit plans. Proposed new rule

N.J.A.C. 11:4-42.15 establishes requirements for certain plans used specifically for this market. These requirements include that the employer must be the contractholder, that the coverage must be 100 percent non-contributory by the contractholder's employees, that the insured employee must, on an insurer-generated form previously filed with the Department, have affirmatively consented to the insurance both initially and at the time of any future unscheduled increase in the amount of coverage, and that the insured employee be given written notice of the amount of insurance in force on his life.

New N.J.A.C. 11:4-42.16 reiterates the form filing requirements of N.J.S.A. 17B: 27-69 and 74 and adds a requirement that the informed consent form to be utilized by insurers as referenced in N.J.A.C. 11:4-42.15 must also be filed with the Department.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments and new rules should have a favorable impact on insurers, consumers and the Department. The codification of the requirements in P.L. 2005, c. 190 dealing with extending coverage to domestic partners, the amended rules regarding group life coverage funded primarily by the certificateholder, and the new rules on employer owned group life plans where benefits are used to fund employee benefit plans should streamline the approval process for the forms used in these developing markets. Additionally, the amendments which update and clarify the Department's requirements for current market trends in products will result in less ambiguous contract wording and fewer consumer complaints. The amendments which require disclosure to and consent by the covered individual in the employer-owned market

will also prevent possible future hardships on families where no proceeds of the group life plan are paid to the covered individual's family. New paragraph 2 in N.J.A.C. 11:4-42.5(i) as proposed to be recodified and amended will have a beneficial social impact on persons covered by group life policies who enter the armed forces of any country by ensuring that their coverage will continue so long as they maintain eligibility under the policy within their eligible class.

Economic Impact

These proposed amendments and new rules will have a favorable economic impact on both insurers and policyowners. Codifying the Department's current policies on group life insurance will economically benefit insurers by providing general notice of these policies and enhancing the efficiency of the form filing process, resulting in insurers being able to market their products more readily. The proposed amendments to N.J.A.C. 11:4-42.5(g) and recodified (f) constitute clarifications of long-standing Department positions applied in the forms review process to ensure that policy forms meet the reasonable expectations of persons purchasing the policy. Similarly, proposed new N.J.A.C. 11:4-42.5(j) reflects the Department's consistent disapproval of contract forms which attempted to eliminate, limit or reduce benefits for self-reported or special conditions as described therein. Thus, the current obligations of insurers under the affected policies will not be affected.

The Department's policies being codified in proposed subsections (g) and (f) that, respectively, bar blanket policies and certificates and group policies providing health insurance benefits from limiting or excluding benefits for losses resulting from complications from elective surgery or treatment and group policies that provide accidental loss coverage from requiring an applicant, as a prerequisite to coverage, to submit satisfactory evidence of insurability, may

initially have negatively impacted insurers by proscribing limitations they attempted to place on benefit claims and criteria they attempted to apply to deny coverage. Similarly, the Department policy being codified in subsection (j) barring group policies and certificates providing disability income benefits from eliminating, limiting or reducing benefits for self-reported or special conditions not verifiable using commonly accepted means solely because such conditions cannot be verified in that manner also may have initially had a negative economic impact upon insurers, as it compelled them to provide coverage that would otherwise have been denied if forms containing such provisions had been approved. The Department is unable to quantify these impacts. However, over time as these Departmental policies have been implemented insurers have rated their policies that provide the coverages in question so as to appropriately fund such coverages. Persons affected by such conditions have been favorably impacted, as they have been able to qualify for coverage.

Several of the proposed amendments will increase insurers' costs by increasing their obligations to provide coverage under policies containing provisions affected by the rules to be amended. The proposed deletion of N.J.A.C. 11:4-42.5(e), which proscribes the providing of life insurance to domestic partners of persons covered under group life insurance policies is one such amendment. As was noted above, however, this amendment is necessary in order to conform the rule to recently enacted legislation.

The prohibition on including mandatory arbitration clauses in group health and group life policies to be codified at proposed N.J.A.C. 11:4-42.5(1) should have a neutral economic effect on insurers at this time, as it reflects the standard for review of group life and health form filings that has been applied by the Department for several years. As previously applied, this standard may have negatively impacted insurers. However, in weighing this potential impact on insurers

versus the restriction upon the legal rights of covered persons that would result from permitting the inclusion of such provisions in policies, the Department struck the balance in favor of preserving the legal rights of the covered persons. As is the case with the other provisions mentioned above, the Department is unable to quantify the impact of this prohibition upon insurers but notes that since the inclusion of mandatory arbitration clauses in them has been consistently disapproved, no change in the cost of coverage under group life and group health policies has resulted from the application of this policy or will result from this proposal.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rules regulate the business of insurance and are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that the proposed amendments and new rules will result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

Pursuant to N.J.S.A. 4:1C-1 et seq., the Right to Farm Act, and N.J.S.A. 52:14B-4(a) of the Administrative Procedures Act, the Department does not expect any agriculture industry impact from the proposed amendments and new rules.

Regulatory Flexibility Analysis

These proposed amendments and new rules may apply to some insurers that constitute "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In addition, the proposed amendments and new rules may impose different reporting or recordkeeping requirements on small businesses, and arguably may place additional administrative burden on small businesses to comply with the rules (although the proposed new rules and amendments ultimately should have the opposite effect). Although the Department does not believe the proposed new rules or amendments require any small businesses to obtain any new or different professional services, a regulatory flexibility analysis is appropriate.

The proposed amendments clarify the Department's existing positions for group life, group health and blanket policies based on issues raised by policy form submissions and ensuing discussions with carriers, and generally result in affirmation of consumer protections. The proposed new rules set forth the Department's standards for certain types of life insurance products that have developed in recent years, and the process for complying with certain filing requirements, with the expectation that filing procedures will be eased, but consumer protections maintained. The Department does not believe that consumer protections should be relaxed based on the size of the insurer involved. Similarly, the Department finds no compelling reason that the standards for filing and approval of forms intended to be offered to group contractholders for the purposes of insuring individuals should be relaxed based on the size of the carrier. Thus, the Department is making no exception to the standards or procedures set forth in the proposed amendments and new rules for small businesses.

Smart Growth Impact

The Department does not expect these proposed amendments and new rules to have any impact upon the achievement of smart growth or implementation of the State Development or Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 42. GROUP LIFE, GROUP HEALTH AND BLANKET INSURANCE:
GENERAL STANDARDS FOR CONTRACT PROVISIONS

11:4-42.1 Purpose and scope

(a) (No change.)

(b) This subchapter shall apply to all group life, group health and blanket insurance contracts and policies delivered or issued for delivery in this State [on or after April 15, 1996], including any group life, group health and blanket insurance policies and contracts the form of which the Commissioner has determined are eligible for file and use in accordance with N.J.A.C.

11:4-40.

11:4-42.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Group health insurance" means a contract or agreement that covers more than one person whereby an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the bodily injury, disablement, sickness, death by accident or accidental means of a human being, or because of any expense relating thereto, or because of any expense incurred in the prevention of sickness, and includes every risk pertaining to any of the enumerated risks. The term "group health insurance" does not include workers' compensation coverage, blanket insurance, **an individual insurance policy issued in accordance with N.J.S.A. 17B:26-2a(3)**, or stop loss or excess risk insurance as defined at N.J.A.C. 11:4-40, but includes and is not limited to long term care, disability income protection, hospital expense, hospital confinement, medical/surgical expense and major medical expense coverages.

"Group life insurance" means a policy or contract which covers more than one person as part of a group that satisfies the specifications of N.J.S.A. 17B:27-[2 through 17B:27-8] **68 or 69**, under which an insurer is obligated to pay or allow a benefit of pecuniary value with respect to the cessation of human life. The term "group life insurance" also includes the granting of endowment benefits and optional modes of settlement of proceeds of group life insurance, as well as provisions in a group policy for: additional benefits in the event of death by accident or accidental means or in the event of dismemberment or loss of sight; or safeguarding such insurance against lapse or giving a special surrender value, or special benefit or annuity in the event that the insured shall become totally and permanently disabled, whether such provisions are incorporated in a policy or contract or supplemental thereto. The term "group life insurance" does not include workers' compensation coverages.

...

"Other income," when used in relation to offsets against group disability income benefits, means and may be defined no more restrictively by an insurer than:

1. (No change.)
2. Benefits paid by Federal plans to the covered person and to those family members receiving supplementary Federal benefits as a result of the covered person's disability or retirement where the family members reside with the covered person or the covered person has a legal obligation to provide for [their] **the** financial support **of the family members**;
3. (No change.)
4. Expected retirement benefits and expected benefits payable by Federal plans **for the covered person and family members eligible for supplementary Federal benefits where the family members reside with the covered person or the covered person has a legal obligation to provide for the financial support of the family members**, pursuant to the limitations set forth at N.J.A.C. 11:4-42.7(b);

5. - 7. (No change.)

The term "other income" does not include:

1. - 6. (No change.)
7. Social security requirement benefits received by the covered person or members of his family which are not the direct result of the covered person's disability; [and]
8. Anticipated or expected benefits obtained or obtainable through legal doctrine, their part liability, subrogation, or other arrangement[.]; **and**
- 9. Income earned from secondary employment immediately prior to the start of disability.**

“Preapproval” means, when used in relationship to a group disability benefit, the process by which insurers evaluate a disability to predetermine the length of a disability and establish a target date for the certificateholder’s return to work.

11:4-42.3 Applicability of other standards

(a) (No change.)

(b) [If a] **A** group insurance contract, policy or certificate **may** contain[s] provisions typically found in individual life or health insurance policies [that] **only if** the Department determines **that such provisions are** appropriate for use in group policies[, the].

1. The Commissioner may apply the rules and statutes governing individual policies when reviewing [such provisions] **a group insurance contract, policy or certificate with provisions typically found in individual life or health insurance policies,** notwithstanding that [they] **the provisions** are contained in a group contract, policy or certificate.

(c) Nothing in this subchapter shall be construed to limit the authority of the Commissioner to disapprove contracts, policies and certificates pursuant to N.J.S.A. 17B:27-[25] **74** and 17B:27-49, 17:48-8, 17:48A-9 and 17:48E-13 which, in the opinion of the Commissioner, contain provisions that are unjust, unfair, inequitable, misleading, contrary to law or to the public policy of this State.

11:4-42.4 General standards

(a) (No change.)

(b) All group insurance forms, including riders and endorsements, shall contain a unique identifying form number in the lower left-hand corner of the first page of the form, and no additional information shall be located in the lower left-hand corner of the form.

[(b)] **(c)** (No change in text.)

[(c)] **(d)** Group policies and certificates that provide disability benefits shall provide that a period of disability begins on the date that disability commences.

1. (No change.)

2. Such policies and certificates shall not require an insured to receive medical treatment for his or her disability other than medical treatment that is generally accepted by the medical community for that disability.

[(d)] **(e)** (No change in text.)

[(e)] **(f)** Group policies and certificates providing accidental death [and] or dismemberment benefits shall provide that such benefits shall be payable if the loss occurs within a period of no less than 90 days from the date of the accident.

1. - 2. (No change.)

Recodify existing (f) and (g) **as (g) and (h)** (No change in text.)

11:4-42.5 Prohibited provisions

(a) (No change.)

(b) Blanket policies and certificates and group policies and certificates providing health insurance shall not limit or exclude [health insurance] benefits because a covered person

suffers a loss attributable to the actions of a third party [while the third party was intoxicated or under the influence of narcotics].

(c) - (d) (No change.)

[(e) Policies providing group life insurance shall not provide life insurance to the domestic partner of a covered person.]

[(f)] **(e)** (No change in text.)

[(g)] **(f)** [Group] **Blanket policies and certificates and group** policies and certificates providing [disability income] **health insurance** benefits shall not limit or exclude benefits for [disabilities] **losses** resulting from **complications of** elective surgery or other **elective** medical treatment.

[(h)] **(g)** Group policies and certificates [providing] **that provide** accidental loss coverage shall not require [a] **an applicant or** proposed covered person to submit satisfactory evidence of insurability as a prerequisite to coverage.

[(i)] **(h)** (No change in text.)

[(j)] **(i)** Group policies and certificates providing life insurance may only include war exclusions that comply with N.J.A.C. 11:4-41.4(a)3i through iii. Any amount payable as a result of a death from an excluded act shall be no less than the total premiums paid by or on behalf of the covered person.

1. (No change)

2. Group policies and certificates that provide life insurance shall not terminate life coverage if the covered person enters the armed forces of any country while the person continues to maintain eligibility under the policy within the person's eligible class.

(j) Group policies and certificates providing disability income benefits shall not eliminate, limit or reduce benefits for self-reported or special conditions not verifiable using tests, procedures, or clinical examinations commonly accepted in the practice of medicine, including chronic fatigue syndrome, arthritis, and carpal tunnel syndrome, solely on the basis that such conditions are not verifiable in that manner.

(k) Policies and certificates providing a life insurance benefit shall not contain provisions that are more restrictive than those at N.J.S.A. 17B:27-75 for payment of death benefits, and shall not include the claims provisions in N.J.S.A. 17B:27-40 through 17B:27-46 for benefits payable as a result of death by natural causes.

(l) Blanket policies and certificates and group policies and certificates providing life or health insurance benefits shall not limit or restrict a covered person's legal rights by requiring mandatory binding arbitration.

(m) In accordance with N.J.A.C. 11:4-58.3, blanket policies and certificates and group policies and certificates providing life or health insurance shall not contain a provision reserving to the insurer the sole discretion to interpret the terms of the policy or contract.

(n) In accordance with P.L. 2006, c. 103, the New Jersey Civil Union Act, civil union couples shall have the same benefits and protections as are granted to spouses in marriage in blanket policies and group policies and certificates providing life and health insurance.

11:4-42.7 Provisions for offsets in group policies and certificates providing disability income insurance.

(a) Group policies and certificates providing disability income insurance may provide that benefits will be offset by other income received by the covered person under the following conditions:

1. Offsets to group **long** term disability benefits may not result in a monthly benefit of less than \$100.00.

2. Offsets to group short term disability benefits may not result in a weekly benefit of less than \$24.00.

[2.] **3.** When other income benefits are paid to the covered person for a specified period of time in a lump sum amount, the other income amount shall be determined by dividing the lump sum amount by the number of **weeks for short term disability benefits and the number** of months **for long term disability benefits** in the specified period for which the lump sum is applicable, and offsetting such amount on a **weekly or** monthly basis, **respectively**.

[3.] **4.** When other income benefits are paid to the covered person for an unspecified time period in a lump sum, the other income shall be offset by dividing the lump sum payment by the number of **weeks of the covered person's expected lifetime for short term disability benefits, and by the number of** months of the covered person's expected lifetime **for long term disability** benefits, and then offsetting such amount on a **weekly or** monthly basis, **respectively**.

[4.] **5** (No change in text.)

(b) - (c) (No change.)

(d) Insurers shall not use secondary employment engaged in prior to the time of a person's disability to reduce benefits payable under the policy except as permitted in paragraph 3 of the definition of other income at N.J.A.C. 11:4-42.2, nor shall insurers use

the earnings from such secondary employment to reduce the disability benefit payable under the policy.

11:4-42.8 Provisions setting forth pre-authorization requirements

(a) Group policies and certificates providing health insurance in which some portion of the **hospital or medical** benefits are subject to pre-authorization provisions shall comply with the following:

1. - 5. (No change.)

(b) - (c) (No change.)

(d) Blanket policies and certificates and group health insurance policies and certificates that provide disability income benefits that require preapproval of all or some of the provided benefits shall comply with (a)1 through 3 and (b) and (c) above, notwithstanding that expense-incurred benefits may not be provided.

11:4-42.9 Provisions for pre-existing conditions exclusions and limitations

(a) (No change.)

(b) Group policies and certificates providing health insurance benefits, other than accidental death and dismemberment, may include pre-existing condition exclusions and limitations subject to the following:

1. (No change.)

2. [No] **Unless otherwise specifically provided in N.J.S.A. 17B:27-55 or another applicable statute, no** policy [, other than a policy providing group disability income insurance,] shall **limit or** exclude coverage for a loss due to a pre-existing condition [for a period of greater]

if the loss commences more than 24 months following the effective date of coverage [, nor shall any policy provide any exclusion or limitation applicable to new losses due to a pre-existing condition after the 24-month (or lesser) period. Policies providing group disability income insurance may exclude coverage for losses beginning during the first 24 months after the effective date of coverage due to disabilities which result from a pre-existing condition].

3. - 4. (No change.)

11:4-42.13 Conversion of group life insurance coverage to an individual life insurance policy

(a) An insurer, in providing the conversion right required by N.J.S.A. 17B:27-[19] **72i**; shall treat the retirement of a covered person under a policy providing group life insurance as a termination of employment and shall permit the covered person to obtain, without evidence of insurability, an individual policy of life insurance.

(b) An insurer shall provide for a right of conversion to an individual policy for the amount of coverage that terminates when a covered person is transferred or transfers from one class of [employee] **covered persons** to another class of [employee] **covered persons**.

11:4-42.14 Group life insurance funded by the certificateholder

(a) When an insurer issues policies and certificates of group life insurance in which the certificateholder contributes 75 percent or more of the premium or charges for coverage, the insurer shall include provisions in the policies and certificates, setting forth the following information:

1. That all ownership rights relating to the insurance and any cash or loan values belong to the certificateholder;

2. That the provisions of N.J.S.A. 17B:25-1 et seq. and rules promulgated pursuant thereto shall apply to the life insurance coverage in addition to the requirements imposed pursuant to N.J.S.A. 17B:27-26 et seq., including 17B:27-68, and the rules promulgated thereunder;

3. That upon the termination of the insurance for any reason, any cash value shall be paid to the certificateholder;

4. That whenever the group policy terminates or the certificateholder would otherwise cease to be a member of the group, as an alternative to the certificateholder exercising the conversion privileges set forth in the policy and certificate as required by N.J.S.A. 17B:27-71i and N.J.A.C. 11:4-42.13, the coverage may remain in force, either through an extension of the definition of a member of the group, or transfer of the certificateholder to another group policyholder consistent with (c) below;

5. The adjustments in benefits or charges that may result from termination of the group policy, or the certificateholder's loss of group eligibility;

6. Instructions for premium payment and direct communication with the insurer. Premiums shall not be remitted directly to the insurer by the certificateholder;

7. The right of the certificateholder to exercise the statutory conversion right at any time, including after coverage is extended under the group policy or the certificate is transferred to another group consistent with (c) below;

8. That any contestability and suicide periods commence as of the effective date of the certificateholder's or covered person's coverage under the group life policy; and

9. The manner in which the continuation is effectuated (for example, extension of the definition of member or a transfer to a portability trust), including the name of any portability trust.

(b) Insurers may permit the coverage to remain in-force through a stated extended definition of member of the group so long as the definition and extension is not limited to healthy lives, and the certificateholder's statutory right of conversion at any time remains intact.

(c) Insurers may permit the coverage to remain in-force through a stated transfer of the certificate to another group policyholder, such as a group life portability trust established by the insurer or an affiliate, so long as the transfer is not limited to healthy lives only, and the group life portability trust satisfies the requirements for a discretionary group under N.J.S.A. 17B:27-69.

(d) Insurers shall provide the Department with an explanation of how rates for continued lives and transferred lives are calculated.

11:4-42.15 Employer-owned life insurance to fund employee benefit plans

(a) An insurer may issue to an employer a group life insurance policy to insure some or all of the employer's employees, the terms of which do not permit the insured employees to receive cash and loan values and the payment of death proceeds but do permit the employer, directly or through a designee, to receive cash and loan values and the payment of death proceeds, where the sole purpose of such payments and proceeds is to fund employee benefits plans. All such group life insurance policies and the insurers that issue such policies shall comply with the following:

1. The contractholder of the policy shall be the sponsoring employer;

2. The employer shall be obligated to pay the entire premium, without any contribution of premium from any employees, retirees or dependents;

3. The employer and/or employer's designee shall be the beneficiary(ies) of the policy;

4. The insurer, whether directly or through the employer, shall notify each insured employee in writing of the amount of the insurance in force on his or her life and of the identity of the beneficiary; and

5. The insurer shall have obtained the written informed consent of each employee to the issuance of the insurance on his or her life on a form generated by the insurer.

(b) An insurer shall not issue insurance on the life of any person who is not a bona fide current, former or retired employee of the contractholder or a director of a corporate contractholder.

(c) An insurer's informed consent form shall be filed with the Department as set forth in N.J.A.C. 11:4-42.16(a) and shall:

1. State that an employee is not required to consent to the insurance as a condition of employment;

2. State that the consent is specific to the amount of insurance specified as being purchased in the notice to the employee and identify the insurer issuing the policy and the beneficiary on the policy;

3. State that in the event the amount of insurance on the employee's life is to be increased, the employee will be notified in writing and provided an opportunity to

affirmatively provide written informed consent or decline to provide such consent. Alternatively, the notice may specify the initial and maximum amount of insurance that may be purchased on the employee under the plan; and

4. Require the signature of the employee.

11:4-42.16 Filing requirements for group life insurance forms

(a) With respect to every group life insurance policy that will be delivered or issued for delivery in New Jersey to a group described at N.J.S.A. 17B:27-68, an insurer shall file with the Department for approval the group policy form, the written application if it is to be made a part of the policy, the informed consent form referenced in N.J.A.C. 11:4-42.15, and any certificate, printed rider or endorsement for use with the group policy in accordance with the requirements of N.J.S.A. 17B:27-74 and N.J.A.C. 11:4-40.

(b) With respect to every group life insurance policy to be delivered in New Jersey to a group other than as described in N.J.S.A. 17B:27-68, an insurer shall comply with (a) above, and in addition shall provide information with the filing demonstrating to the satisfaction of the Commissioner that:

1. The issuance of the group policy shall not be contrary to the best interest of the public;

2. The issuance of the group policy shall result in economies of acquisition or administration; and

3. The benefits shall be reasonable in relation to the premiums charged.

(c) With respect to the offering of group life insurance to a resident of New Jersey under a group life insurance policy issued in another state or jurisdiction to a group

other than a group described in N.J.S.A. 17B:27-68, an insurer shall submit information to the Department demonstrating to the satisfaction of the Commissioner that:

1. Issuance of the policy shall not be contrary to the best interests of the public; issuance of the policy shall result in economies of acquisition or administration; and the benefits under the policy are reasonable in relation to the premiums charged; or

2. The chief insurance regulatory officer of a State in which the policy has been delivered has determined that the policy meets the requirements of (c)1 above.

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