

§ 148.220 Excepted benefits.

The requirements of this part and part 147 of this subchapter do not apply to any individual coverage in relation to its provision of the benefits described in paragraphs (a) and (b) of this section (or any combination of the benefits).

(a) *Benefits excepted in all circumstances.* The following benefits are excepted in all circumstances:

- (1) Coverage only for accident (including accidental death and dismemberment).
- (2) Disability income insurance.
- (3) Liability insurance, including general liability insurance and automobile liability insurance.
- (4) Coverage issued as a supplement to liability insurance.
- (5) Workers' compensation or similar insurance.
- (6) Automobile medical payment insurance.
- (7) Credit-only insurance (for example, mortgage insurance).
- (8) Coverage for on-site medical clinics.
- (9) Travel insurance, within the meaning of § 144.103 of this subchapter.

(b) *Other excepted benefits.* The requirements of this part do not apply to individual health insurance coverage described in paragraphs (b)(1) through (b)(6) of this section if the benefits are provided under a separate policy, certificate, or contract of insurance. These benefits include the following:

- (1) Limited scope dental or vision benefits. These benefits are dental or vision benefits that are limited in scope to a narrow range or type of benefits that are generally excluded from benefit packages that combine hospital, medical, and surgical benefits.
- (2) Long-term care benefits. These benefits are benefits that are either—
 - (i) Subject to State long-term care insurance laws;
 - (ii) For qualified long-term care insurance services, as defined in section 7702B(c)(1) of the Code, or provided under a qualified long-term care insurance contract, as defined in section 7702B(b) of the Code; or
 - (iii) Based on cognitive impairment or a loss of functional capacity that is expected to be chronic.
- (3) Coverage only for a specified disease or illness (for example, cancer policies) if the policies meet the requirements of § 146.145(b)(4)(ii)(B) and (C) of this subchapter regarding noncoordination of benefits.

(4) Hospital indemnity or other fixed indemnity insurance only if—

(i) There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage;

(ii) The benefits are paid in a fixed dollar amount per period of hospitalization or illness and/or per service (for example, \$100/day or \$50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage; and

(iii)(A) For coverage periods beginning on or after January 1, 2025, the issuer displays prominently on the first page (in either paper or electronic form, including on a website) of any marketing, application, and enrollment or reenrollment materials that are provided at or before the time an individual has the opportunity to apply, enroll or reenroll in coverage, and on the first page of the policy, certificate, or contract of insurance, in at least 14-point font, the language in the following notice:

(B) For coverage periods beginning on or after January 1, 2015, and prior to January 1, 2025, the issuer continues to follow the notice provision in 45 CFR 148.220(b)(4)(iv), revised as of October 1, 2023.

(iv) If any provision of this paragraph (b)(4) is held to be invalid or unenforceable by its terms, or as applied to any entity or circumstance, or stayed pending further agency action, the provision shall be construed so as to continue to give the maximum effect to the provision permitted by law, along with other provisions not found invalid or unenforceable, including as applied to entities not similarly situated or to dissimilar circumstances, unless such holding is that the provision is invalid and unenforceable in all circumstances, in which event the provision shall be severable from the remainder of this paragraph (b)(4) and shall not affect the remainder thereof.

(5) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss, also known as Medigap or MedSupp insurance). The requirements of this part 148 (including genetic nondiscrimination requirements), do not apply to Medicare supplemental health insurance policies. However, Medicare supplemental health insurance policies are subject to similar genetic nondiscrimination requirements under section 104 of the Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110-233), as incorporated into the NAIC Model Regulation relating to sections 1882(s)(2)(e) and (x) of the Act (The NAIC Model Regulation can be accessed at <http://www.naic.org>).

(6) Coverage supplemental to the coverage provided under Chapter 55, Title 10 of the United States Code (also known as CHAMPUS supplemental programs).

(7) Similar supplemental coverage provided to coverage under a group health plan (as described in § 146.145(b)(5)(i)(C) of this subchapter).

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