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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 1. The Contract [10110 - 10198.10] (*Chapter 1 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 7. Preexisting Condition Provisions [10198.6 - 10198.10] (*Article 7 repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11.*)

10198.6. For purposes of this article, the following definitions shall apply:

(a) "Health benefit plan" means any group or individual policy of health insurance, as defined in Section 106. The term does not include coverage of Medicare services pursuant to contracts with the United States government or coverage that provides excepted benefits as described in Sections 2722 and 2791 of the federal Public Health Service Act, subject to Section 10198.61.

(b) "Preexisting condition provision" means a policy provision that excludes coverage for charges or expenses incurred during a specified period following the insured's effective date of coverage, as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the effective date of coverage.

(c) "Creditable coverage" means:

(1) Any individual or group policy, contract, or program, that is written or administered by a health insurer, health care service plan, fraternal benefits society, self-insured employer plan, or any other entity, in this state or elsewhere, and that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans. The term includes continuation or conversion coverage but does not include accident only, credit, coverage for onsite medical clinics, disability income, Medicare supplement, long-term care insurance, dental, vision, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) The federal Medicare Program pursuant to Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

(3) The Medicaid Program pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(4) Any other publicly sponsored program, provided in this state or elsewhere, of medical, hospital, and surgical care.

(5) 10 U.S.C. Chapter 55 (commencing with Section 1071) (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)).

(6) A medical care program of the Indian Health Service or of a tribal organization.

(7) A health plan offered under 5 U.S.C. Chapter 89 (commencing with Section 8901) (Federal Employees Health Benefits Program (FEHBP)).

(8) A public health plan as defined in federal regulations authorized by Section 2701(c)(1)(I) of the federal Public Health Service Act, as amended by Public Law 104-191, the federal Health Insurance Portability and Accountability Act of 1996.

(9) A health benefit plan under Section 5(e) of the federal Peace Corps Act (22 U.S.C. Sec. 2504(e)).

(10) Any other creditable coverage as defined by subsection (c) of Section 2704 of Title XXVII of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-3(c)).

(d) "Waivered condition provision" means a contract provision that excludes coverage for charges or expenses incurred during a specified period of time for one or more specific, identified, medical conditions.

(e) "Grandfathered health benefit plan" means a health benefit plan that is a grandfathered health plan, as defined in Section 1251 of PPACA.

(f) "Nongrandfathered health benefit plan" means a health benefit plan that is not a grandfathered health plan as defined in Section 1251 of PPACA.

(g) "PPACA" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any rules, regulations, or guidance issued pursuant to that law.

(Repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 10198.10.)

10198.61. (a) For purposes of this article, "health benefit plan" does not include policies or certificates of specified disease or hospital confinement indemnity provided that the carrier offering those policies or certificates complies with the following:

(1) The carrier files, on or before March 1 of each year, a certification with the commissioner that contains the statement and information described in paragraph (2).

(2) The certification required in paragraph (1) shall contain the following:

(A) A statement from the carrier certifying that policies or certificates described in this section (i) are being offered and marketed as supplemental health insurance and not as a substitute for coverage that provides essential health benefits as defined by the state pursuant to Section 1302 of PPACA, and (ii) the disclosure form as described in Section 10603 contains the following statement prominently on the first page: "This is a supplement to health insurance. It is not a substitute for essential health benefits or minimum essential coverage as defined in federal law."

(B) A summary description of each policy or certificate described in this section, including the average annual premium rates, or range of premium rates in cases where premiums vary by age, gender, or other factors, charged for the policies and certificates issued or delivered in this state.

(3) In the case of a policy or certificate described in this section and that is offered for the first time in this state for plan years on or after January 1, 2014, the carrier files with the commissioner the information and statement required in paragraph (2) at least 30 days prior to the date such a policy or certificate is issued or delivered in this state.

(b) As used in this section, "policies or certificates of specified disease" and "policies or certificates of hospital confinement indemnity" mean policies or certificates of insurance sold to an insured to supplement other health insurance coverage as specified in this section. An insurer issuing a "policy or certificate of specified disease" or a "policy or certificate of hospital confinement indemnity" shall require that the person to be insured is covered by an individual or group policy or contract that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans.

(Repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 10198.10.)

10198.7. (a) A health benefit plan for group coverage shall not impose any preexisting condition provision or waived condition provision upon any individual.

(b) (1) A nongrandfathered health benefit plan for individual coverage shall not impose any preexisting condition provision or waived condition provision upon any individual.

(2) A grandfathered health benefit plan for individual coverage shall not exclude coverage on the basis of a waived condition provision or preexisting condition provision for a period greater than 12 months following the individual's effective date of coverage, nor limit or exclude coverage for a specific insured by type of illness, treatment, medical condition, or accident, except for satisfaction of a preexisting condition provision or waived condition provision pursuant to this article. Waivered condition provisions or preexisting condition provisions contained in individual grandfathered health benefit plans may relate only to conditions for which medical advice, diagnosis, care, or treatment, including use of prescription drugs, was recommended or received from a licensed health practitioner during the 12 months immediately preceding the effective date of coverage.

(3) In determining whether a preexisting condition provision or a waived condition provision applies to an individual under this subdivision, a health benefit plan shall credit the time the individual was covered under creditable coverage, provided that the individual becomes eligible for coverage under the succeeding health benefit plan within 62 days of termination of prior coverage and applies for coverage under the succeeding plan within the applicable enrollment period.

(c) A health benefit plan for group or individual coverage shall not impose a waiting period.

(Amended by Stats. 2021, Ch. 764, Sec. 8. (SB 326) Effective January 1, 2022.)

10198.8. This article applies to all health benefit plans that provide benefits to residents of this state regardless of the situs of the contract or group master policyholder.

(Repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 10198.10.)

10198.9. A health benefit plan for group coverage shall not establish rules for eligibility, including continued eligibility, of an individual, or dependent of an individual, to enroll under the terms of the plan based on any of the following health status-related factors:

- (a) Health status.
- (b) Medical condition, including physical and mental illnesses.
- (c) Claims experience.
- (d) Receipt of health care.
- (e) Medical history.
- (f) Genetic information.
- (g) Evidence of insurability, including conditions arising out of acts of domestic violence.
- (h) Disability.
- (i) Any other health status-related factor as determined by any federal regulations, rules, or guidance issued pursuant to Section 2705 of the federal Public Health Service Act.

(Repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 10198.10.)

10198.10. This article shall become operative on January 1, 2014.

(Repealed (in Sec. 12) and added by Stats. 2012, Ch. 852, Sec. 11. (AB 1083) Effective January 1, 2013. Note: This section prescribes a delayed operative date (Jan. 1, 2014) for Article 7, commencing with Section 10198.6.)