HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] *(Division 2 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 2.2. Health Care Service Plans [1340 - 1399.874] *(Chapter 2.2 added by Stats. 1975, Ch. 941.)*

ARTICLE 3.15. Preexisting Condition Provisions [1357.50 - 1357.55] *(Article 3.15 repealed (in Sec. 5) and added by Stats. 2012, Ch. 852, Sec. 4.)*

1357.50. (a) For purposes of this article, the following definitions shall apply:

(1) “Health benefit plan” means a health care service plan contract that provides medical, hospital, and surgical benefits. The term does not include coverage of Medicare services pursuant to contracts with the United States government, Medicare supplement coverage, or coverage under a specialized health care service plan contract.

(2) “Preexisting condition provision” means a contract provision that excludes coverage for charges or expenses incurred during a specified period following the enrollee’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.

(3) “Creditable coverage” means:

(A) Any individual or group policy, contract, or program that is written or administered by a health insurer, nonprofit hospital service plan, 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.

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

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

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

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

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

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

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

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

(J) 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)).

(4) “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.

(5) “Affiliation period” means a period that, under the terms of the health benefit plan, must expire before health care services under the plan become effective.

(6) “Waiting period” means a period that is required to pass with respect to an employee before the employee is eligible to be covered for benefits under the terms of the plan.

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

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

(9) “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. 5) and added by Stats. 2012, Ch. 852, Sec. 4. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 1357.55.)

1357.51. (a) A health benefit plan for group coverage shall not impose any preexisting condition provision or waivered condition provision upon any enrollee.

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

(2) A grandfathered health benefit plan for individual coverage shall not exclude coverage on the basis of a waivered condition provision or preexisting condition provision for a period greater than 12 months following the enrollee’s effective date of coverage, nor limit or exclude coverage for a specific enrollee by type of illness, treatment, medical condition, or accident, except for satisfaction of a preexisting condition provision or waivered 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 waivered condition provision applies to an individual under this subdivision, a plan shall credit the time the individual was covered under creditable coverage, provided that the individual becomes eligible for coverage under the succeeding plan contract 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 any waiting or affiliation period.

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

1357.52. 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 Public Health Service Act.

(Repealed (in Sec. 5) and added by Stats. 2012, Ch. 852, Sec. 4. (AB 1083) Effective January 1, 2013. Section operative January 1, 2014, pursuant to Section 1357.55.)

1357.55. This article shall become operative on January 1, 2014.

(Repealed (in Sec. 5) and added by Stats. 2012, Ch. 852, Sec. 4. (AB 1083) Effective January 1, 2013. Note: This section prescribes a delayed operative date (January 1, 2014) for new Article 3.15, commencing with Section 1357.50.)