

## **§ 1358.5. Required definitions**

(a) A contract shall not be advertised, solicited, or issued for delivery as a Medicare supplement contract unless the contract contains definitions or terms that conform to the requirements of this section.

(1)(A) “Accident,” “accidental injury,” or “accidental means” shall be defined to employ “result” language and shall not include words that establish an accidental means test or use words such as “external, violent, visible wounds” or other similar words of description or characterization.

(B) The definition shall not be more restrictive than the following: “injury or injuries for which benefits are provided means accidental bodily injury sustained by the covered person that is the direct result of an

accident, independent of disease or bodily infirmity or any other cause, and occurs while coverage is in force.”

(C) The definition may provide that injuries shall not include injuries for which benefits are provided or available under any workers’ compensation, employer’s liability, or similar law, unless prohibited by law.

(2) “Benefit period” or “Medicare benefit period” shall not be defined more restrictively than as defined in the Medicare program.

(3) “Convalescent nursing home,” “extended care facility,” or “skilled nursing facility” shall not be defined more restrictively than as defined in the Medicare program.

(4) “Health care expenses” means for purposes of Section 1358.14, expenses of health care service plans associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers.

(5) “Hospital” may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare Program.

(6) “Medicare” shall be defined in the contract. “Medicare” may be substantially defined as “The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as amended,” or “Title I, Part I of Public Law 89-97, as enacted by the 89th Congress and popularly known as the Health Insurance for the Aged Act, as amended,” or words of similar import.

(7) “Medicare eligible expenses” shall mean expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare.

(8) “Physician” shall not be defined more restrictively than as defined in the Medicare Program.

(9)(A) “Sickness” shall not be defined more restrictively than as follows: “sickness means illness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force.”

(B) The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers’ compensation, occupational disease, employer’s liability, or similar law.

(b) Nothing in this section shall be construed as prohibiting any contract, by definitions or express provisions, from limiting or restricting any or all of the benefits provided under the contract, except in-area and out-of-area emergency services, to those health care services that are delivered by issuer, employed, owned, or contracting providers, and provider facilities, so long as the contract complies with the provisions of Sections 1358.14 and 1367 and with Section 1300.67 of Title 28 of the California Code of Regulations.

(c) Nothing in this section shall be construed as prohibiting any contract that limits or restricts any or all of the benefits provided under the contract in the manner contemplated in subdivision (b) from limiting its obligation to deliver services, and disclaiming any liability from any delay or failure to provide those services (1) in the event of a major disaster or epidemic or (2) in the event of circumstances not reasonably within the control of the issuer, such as the partial or total destruction of facilities, war, riot, civil insurrection,

disability of a significant part of its health personnel, or similar circumstances so long as the provisions comply with the provisions of subdivision (h) of Section 1367.

**HISTORY:**

Added Stats 2000 ch 706 § 2 (SB 764).

Amended Stats 2005 ch 206 § 2 (SB 375),  
effective January 1, 2006.