Senate Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 48

SENATE BILL 1098

AN ACT

AMENDING SECTIONS 20-450 AND 20-2310, ARIZONA REVISED STATUTES; RELATING TO INSURANCE DISCRIMINATORY PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-450, Arizona Revised Statutes, is amended to read:

20-450. Practices not prohibited as discrimination or rebates in life and disability insurance; wellness programs

A. Nothing in ~~sections~~ SECTION 20-448 or 20-449 shall be construed as including within the definition of discrimination or rebates any of the following practices:

1. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or part out of surplus accumulated from nonparticipating insurance, but any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

2. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

3. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

4. Issuing life or disability policies on a salary savings or payroll deduction plan at a reduced rate commensurate with the savings made by the use of such plan.

B. SECTION 20-448 OR 20-452 DOES NOT PROHIBIT ANY PERSON FROM PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT. 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT ACT.

Sec. 2. Section 20-2310, Arizona Revised Statutes, is amended to read:

20-2310. Discrimination prohibited; preexisting conditions; wellness programs

A. Except as provided in subsection B of this section, a health benefits plan may not deny, limit or condition the coverage or benefits based on a person's health status-related factors or a lack of evidence of insurability.

B. A health benefits plan shall not exclude coverage for preexisting conditions, except that:

1. A health benefits plan may exclude coverage for preexisting conditions for a period of not more than twelve months or, in the case of a late enrollee, eighteen months. The exclusion of coverage does not apply to services that are furnished to newborns who were otherwise covered from the

time of their birth or to persons who satisfy the portability requirements under section 20-2308.

2. The accountable health plan shall reduce the period of any applicable preexisting condition exclusion by the aggregate of the periods of creditable coverage that apply to the individual.

C. A health benefits plan shall not include an affiliation period in a policy unless the affiliation period satisfies the requirements prescribed in 45 Code of Federal Regulations section 146.119(b).

D. On request of a health benefits plan, a person who provides coverage during a period of continuous coverage with respect to a covered individual shall promptly disclose the coverage provided to the covered individual, the period of the coverage and the benefits provided under the coverage.

E. The accountable health plan shall calculate creditable coverage according to the following rules:

1. The accountable health plan shall give an individual credit for each day the individual was covered by creditable coverage.

2. The accountable health plan shall not count a period of creditable coverage for an individual enrolled in a health benefits plan if after the period of coverage and before the enrollment date there were sixty-three consecutive days during which the individual was not covered under any creditable coverage.

3. The accountable health plan shall give credit in the calculation of creditable coverage for any period that an individual is in a waiting period or an affiliation period for any health coverage.

4. The accountable health plan shall not count a period of creditable coverage with respect to enrollment of an individual if, after the most recent period of creditable coverage and before the enrollment date, sixty-three consecutive days lapse during all of which the individual was not covered under any creditable coverage. The accountable health plan shall not include in the determination of the period of continuous coverage described in this section any period that an individual is in a waiting period for health insurance coverage offered by a health care insurer, is in a waiting period for benefits under a health benefits plan offered by an accountable health plan or is in an affiliation period.

5. In determining the extent to which an individual has satisfied any portion of any applicable preexisting condition period the accountable health plan shall count a period of creditable coverage without regard to the specific benefits covered during that period.

6. An accountable health plan shall not impose any preexisting condition exclusion in the case of an individual who is covered under creditable coverage thirty-one days after the individual's date of birth.

7. An accountable health plan shall not impose any preexisting condition exclusion in the case of a child who is adopted or placed for

adoption before age eighteen and who is covered under creditable coverage thirty-one days after the adoption or placement for adoption.

F. An accountable health plan shall provide the certificate of creditable coverage described in subsection G of this section without charge for creditable coverage occurring after June 30, 1996 if the individual:

1. Ceases to be covered under a health benefits plan offered by an accountable health plan or otherwise becomes covered under a COBRA continuation provision. An individual who is covered by a health benefits plan that is offered by an accountable health plan, that is terminated or not renewed at the choice of the employer and where the replacement of the health benefits plan is without a break in coverage is not entitled to receive the certification prescribed in this paragraph but is instead entitled to receive the certifications prescribed in paragraphs 2 and 3 of this subsection.

2. Who was covered under a COBRA continuation provision ceases to be covered under the COBRA continuation provision.

3. Requests certification from the accountable health plan within twenty-four months after the coverage under a health benefits plan offered by an accountable health plan ceases.

G. The certificate of creditable coverage provided by an accountable health plan is a written certification of:

1. The period of creditable coverage of the individual under the accountable health plan and any applicable coverage under a COBRA continuation provision.

2. Any applicable waiting period or affiliation period imposed on an individual for any coverage under the accountable health plan.

H. Any accountable health plan that issues health benefits plans in this state, as applicable, shall issue and accept a written certificate of creditable coverage of the individual that contains at least the following information:

1. The date that the certificate is issued.

2. The name of the individual or dependent for whom the certificate applies and any other information that is necessary to allow the issuer providing the coverage specified in the certificate to identify the individual, including the individual's identification number under the policy and the name of the policyholder if the certificate is for or includes a dependent.

3. The name, address and telephone number of the issuer providing the certificate.

4. The telephone number to call for further information regarding the certificate.

5. One of the following:

(a) A statement that the individual has at least eighteen months of creditable coverage. For THE purposes of this subdivision, "eighteen months" means five hundred forty-six days.

(b) Both the date that the individual first sought coverage, as evidenced by a substantially complete application, and the date that creditable coverage began.

6. The date creditable coverage ended, unless the certificate indicates that creditable coverage is continuing from the date of the certificate.

7. The consumer assistance telephone number for the department.

8. The following statement in at least fourteen point type:

Important notice!

Keep this certificate with your important personal records to protect your rights under the health insurance portability and accountability act of 1996 ("HIPAA"). This certificate is proof of your prior health insurance coverage. You may need to show this certificate to have a guaranteed right to buy new health insurance ("Guaranteed issue"). This certificate may also help you avoid waiting periods or exclusions for preexisting conditions. Under HIPAA, these rights are guaranteed only for a very short time period. After your group coverage ends, you must apply for new coverage within 63 days to be protected by HIPAA. If you have questions, call the Arizona department of insurance.

I. An accountable health plan may provide any certification pursuant to subsection F, paragraph 1 of this section at the same time the accountable health plan sends the notice required by the applicable COBRA continuation provision.

J. An accountable health plan has satisfied the certification requirement under this section if the accountable health plan offering the health benefits plan provides the prescribed certificate in accordance with this section within thirty days after the event that triggered the issuance of the certification.

K. If an accountable health plan imposes a waiting period for coverage of preexisting conditions, within a reasonable period of time after receiving an individual's proof of creditable coverage and not later than the date by which the individual must select an insurance plan, the accountable health plan shall give the individual written disclosure of the accountable health plan's determination regarding any preexisting condition exclusion period that applies to that individual. The disclosure shall include all of the following information:

1. The period of creditable coverage allowed toward the waiting period for coverage of preexisting conditions.

2. The basis for the accountable health plan's determination and the source and substance of any information on which the accountable health plan has relied.

3. A statement of any right the individual may have to present additional evidence of creditable coverage and to appeal the accountable health plan's determination, including an explanation of any procedures for submission and appeal.

L. Periods of creditable coverage for an individual are established by presentation of the written certifications described in this section and section 20-1379. In addition to written certification of the period of creditable coverage as described in this section, individuals may establish creditable coverage through the presentation of documents or other means. In order to make a determination that is based on the relevant facts and circumstances of the amount of creditable coverage that an individual has, an accountable health plan shall take into account all information that the plan obtains or that is presented to the plan on behalf of the individual.

M. The department may enforce and monitor the issuance and delivery of the notices and certificates by accountable health plans and insurers as required by this section, the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936) and any federal regulations adopted to implement the health insurance portability and accountability act of 1996.

N. THIS SECTION DOES NOT PROHIBIT ANY HEALTH BENEFITS PLAN FROM PROVIDING OR OFFERING TO PROVIDE REWARDS OR INCENTIVES UNDER A WELLNESS PROGRAM THAT SATISFIES THE REQUIREMENTS FOR AN EXCEPTION FROM THE GENERAL PROHIBITION AGAINST DISCRIMINATION BASED ON A HEALTH FACTOR UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (P.L. 104-191; 110 STAT. 1936), INCLUDING ANY FEDERAL REGULATIONS THAT ARE ADOPTED PURSUANT TO THAT ACT.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.

Passed the House April 9, 20 07,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate February 8, 20 07,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Timothy S. Bee

President of the Senate

Charmine Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10th day of April, 2007

at 1:50 o'clock P. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 16 day of

April, 2007,

at 2:30 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16 day of April, 2007,

at 4:56 o'clock P. M.

Janice K. Brewer

Secretary of State

S.B. 1098