

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF LIFE AND HEALTH

Minimum Standards for Individual Health Insurance

Disability Income Protection Coverage

Proposed Amendment: N.J.A.C. 11:4-16.6

Authorized By: Kenneth E. Kobylowski, Acting Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8, 17:1-15.e, and 17B:26-45.

Calendar Reference: See Summary below for explanation of the exceptions to the calendar requirement.

Proposal Number: PRN 2012-055.

Submit comments by June 1, 2012 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) is proposing to amend its rules on Minimum Standards for Individual Health Insurance, specifically, N.J.A.C. 11:4-16.6(g), the disability income protection coverage provision. The Department notes that individual long-term disability plans currently have a maximum elimination (or waiting) period in New Jersey of one year before benefits can be paid out. N.J.A.C. 11:4-16.6(g) is proposed to be amended to revise the “365 days” reference therein to “two years.”

The proposed amendment is beneficial to individuals who already have group disability coverage for the initial two years after a disabling event and who wish to buy an individual policy that does not provide redundant coverage. Under the current rule, such persons or their employers are restricted from buying an individual plan because the maximum elimination period is currently one year and the employer’s group policy provides coverage for the first two years, resulting in an over-insurance issue for the second year. If the maximum elimination period for an individual plan is revised to two years, it will eliminate this problem and there will be no over-insurance issue. Shorter elimination periods would continue to be permissible for those carriers that do not require the longer period.

A 60-day comment period is provided for this notice of proposal, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendment will have a beneficial impact on certain individuals who are covered by group disability plans, but wish to buy an individual disability income protection coverage plan by affording to insurers the flexibility to provide for the maximum elimination

period of up to two years. This provides insurers the flexibility they need to customize the elimination period to better fit consumer needs.

Economic Impact

The proposed amendment will have a beneficial economic impact on persons who wish to purchase individual disability income protection coverage without having to incur the cost attendant upon being over-insured for up to a year. Thus, the cost of individual disability coverage is made more affordable by extending the maximum elimination period from one year to two years. The Department does not anticipate any economic impact on insurers as a result of this amendment.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment relates to the business of insurance and is not subject to any Federal requirements or standards.

Jobs Impact

The Department does not believe that the proposed amendment will cause any jobs to be generated or lost.

Agriculture Industry Impact

The Department does not expect any impact on the agriculture industry as a result of the proposed amendment.

Regulatory Flexibility Analysis

The proposed amendment may apply to “small business” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The “small businesses” to which these amendments apply are insurers domiciled in this State transacting life and/or health coverage. The Department does not believe that the hiring of additional staff or professional services will be necessary to comply with the proposed amendment. The proposed amendment revises the maximum elimination period for individual disability income protection coverage from one year to two years.

As the goal of affording to consumers the ability to purchase individual disability coverage without having to obtain duplicative coverage does not vary based upon the size of the insurer from whom the individual disability coverage is purchased, the proposed amendment provides no differentiation in compliance requirements based on business size.

Housing Affordability Impact Analysis

The proposed amendment will not have an impact on housing affordability because the proposed amendment relates to minimum standards for benefits, specifically disability income protection coverage.

Smart Growth Development Impact Analysis

The Department believes that there is an extreme unlikelihood that the proposed amendment would evoke change in housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey

because the proposed amendment addresses minimum standards for benefits, specifically disability income protection coverage.

Full text of the proposal follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

11:4-16.6 Minimum standards for benefits

(a) – (f) (No change.)

(g) Disability income protection coverage shall be subject to the following standards:

1. “Disability income protection coverage” is a health insurance policy which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination thereof which:

i. (No change.)

ii. Contains an elimination period no greater than:

(1) 90 days in the case of coverage providing a benefit of one year or less;

(2) 180 days in the case of coverage providing a benefit of more than one year but not greater than two years; or

(3) [365 days] **Two years** in all other cases during the continuance of disability resulting from sickness or injury;

iii. - vi. (No change.)

2. - 4. (No change.)

(h) - (k) (No change.)