

SENATE BILL NO. 440

INTRODUCED BY C. CHRISTIAENS, HAINES

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING FULL DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICE COST PARTICIPATION REQUIREMENTS BY INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS; REQUIRING THE INSURANCE COMMISSIONER TO REVIEW AND APPROVE OUTLINES OF COVERAGE; PROVIDING DISCLOSURE STANDARDS FOR OUTLINES OF COVERAGE FOR INDIVIDUAL AND GROUP DISABILITY INSURANCE POLICIES AND APPLYING THOSE REQUIREMENTS TO HEALTH MAINTENANCE ORGANIZATIONS; ~~AND~~ AMENDING SECTIONS 33-1-501, 33-22-244, 33-22-521, AND 33-31-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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Section 1. Section 33-1-501, MCA, is amended to read:

"33-1-501. Filing and approval of forms. (1) (a) An insurance policy or annuity contract form, certificate, enrollment form, application form, printed rider or endorsement form, or form of renewal certificate may not be delivered or issued for delivery in Montana unless the form and, for the purposes of disability insurance, an outline of coverage as required by 33-22-244 and 33-22-521 ~~has~~ have been filed with and approved by the commissioner and, if required, the regulatory official of the state of domicile of the insurer. This provision does not apply to surety bonds or policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject or that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. Forms for use in property, marine, other than ocean marine and foreign trade coverages, casualty, and surety insurance coverages may be filed by a rating organization on behalf of its members and subscribers or by a member or subscriber on its own behalf.

(b) The approval of an insurance policy or annuity contract form, certificate, enrollment form, application form, or other related insurance form by the state of domicile may be waived by the commissioner if the commissioner considers the requirements of subsection (1)(a) unnecessary for the protection of Montana insurance consumers. If the requirement is waived, an insurer shall notify the



1 commissioner in writing within 10 days of disapproval, denial, or withdrawal of approval of a form by the
2 state of domicile.

3 (2) The filing must be made not less than 60 days in advance of delivery. Approval of a form by
4 the commissioner constitutes a waiver of any unexpired portion of the waiting period. The commissioner
5 may extend by not more than an additional 60 days the period within which the commissioner may
6 approve or disapprove a form by giving notice of the extension before expiration of the initial 60-day
7 period. The commissioner may at any time, after notice and for cause shown, withdraw any approval.

8 (3) Notice by the commissioner disapproving a form or withdrawing a previous approval must state
9 the grounds for disapproval or withdrawal in sufficient detail to inform the insurer.

10 (4) The commissioner may exempt from the requirements of this section, for so long as the
11 commissioner considers proper, an insurance document, form, or type of document or form to which, in
12 the commissioner's opinion, this section may not practicably be applied or the filing and approval of which
13 are not desirable or necessary for the protection of the public.

14 (5) This section applies to a form used by a domestic insurer for delivery in a jurisdiction outside
15 Montana if the insurance supervisory official of the jurisdiction informs the commissioner that the form is
16 not subject to approval or disapproval by the official and upon the commissioner's order requiring the form
17 to be submitted to the commissioner for the purpose. The same standards apply to these forms as apply
18 to forms for domestic use.

19 (6) This section and 33-1-502 do not apply to:

20 (a) reinsurance;

21 (b) policies or contracts not issued for delivery in Montana or delivered in Montana, except as
22 provided in subsection (5);

23 (c) ocean marine and foreign trade insurances.

24 (7) Except as provided in chapter 21, group certificates that are delivered or issued for delivery
25 in Montana for group insurance policies effectuated and delivered outside Montana but covering persons
26 resident in Montana must be filed with the commissioner upon request. The certificates must meet the
27 minimum provisions mandated by Montana if Montana law prevails over conflicting provisions of other
28 state law."

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30 **Section 2.** Section 33-22-244, MCA, is amended to read:

1 **"33-22-244. Disclosure standards -- individual policy.** (1) In order to provide for full and fair
 2 disclosure in the sale of disability insurance, an individual disability insurance policy may not be delivered
 3 or issued for delivery in this state unless an outline of coverage is filed with and approved by the insurance
 4 commissioner in accordance with 33-1-501 and is delivered to the applicant at the time the application
 5 is made.

6 (2) The outline of coverage must include:

7 (a) a general description of the principal benefits and coverages provided by the policy;

8 (b) a general description of the ~~insureds~~ insured's financial responsibility under the policy,
 9 including, if applicable, the amount of the deductible, the amount or percentage of copayment, and the
 10 maximum annual out-of-pocket expenses to be paid by the insured;

11 (c) a statement of the maximum lifetime benefit available under the policy;

12 (d) a statement of the estimated periodic premium to be paid by the insured;

13 (e) a general description of the factors or case characteristics that the insurer may consider in
 14 establishing or changing the premiums and, if applicable, in determining the insurability of the applicant;
 15 ~~and~~

16 (f) a PROMINENTLY DISPLAYED statement of the insured's responsibility for payment of billed charges
 17 beyond those charges reimbursed by the insurer when the insured uses health care services from a health
 18 care provider who is outside a network of health care providers used by the insurer; and

19 ~~(f)(g)~~ (g) a general description of the trend of premium increases or decreases for comparable policies
 20 issued by the insurer during the preceding 5 years, if the trend data is available.

21 (3) The outline of coverage may include any other information that the insurer considers relevant
 22 to the ~~applicants~~ applicant's selection of an appropriate individual disability policy.

23 (4) An insurer or producer shall provide to an individual, upon request, an outline of coverage for
 24 any health benefit product marketed to the general public. The outline of coverage provided under this
 25 subsection may exclude the statement of the estimated periodic premium to be paid by the insured."

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27 **Section 3.** Section 33-22-521, MCA, is amended to read:

28 **"33-22-521. Disclosure standards -- group policy.** (1) In order to provide for full and fair disclosure
 29 in the sale of disability insurance, a group disability insurance policy may not be delivered or issued for
 30 delivery in this state unless an outline of coverage is filed with and approved by the insurance

1 commissioner in accordance with 33-1-501 and is delivered to the applicant at the time the application
2 is made.

3 (2) The outline of coverage must include:

4 (a) a general description of the principal benefits and coverages provided by the policy;

5 (b) a general description of the ~~insureds~~ insured's financial responsibility under the policy,
6 including, if applicable, the amount of the deductible, the amount or percentage of copayment, and the
7 maximum annual out-of-pocket expenses to be paid by the insured;

8 (c) a statement of the maximum lifetime benefit available under the policy;

9 (d) a statement of the estimated periodic premium to be paid by the insured;

10 (e) a general description of the factors or case characteristics that the insurer may consider in
11 establishing or changing the premiums and, if applicable, in determining the insurability of the applicant;
12 ~~and~~

13 (f) a PROMINENTLY DISPLAYED statement of the insured's responsibility for payment of billed charges
14 beyond those charges reimbursed by the insurer when the insured uses health care services from a health
15 care provider who is outside a network of health care providers used by the insurer; and

16 ~~(f)(g)~~ a general description of the trend of premium increases or decreases for comparable policies
17 issued by the insurer during the preceding 5 years, if the trend data is available.

18 (3) If applicable, the outline of coverage must disclose that the policy does not contain coverage
19 for mental illness or chemical dependency.

20 (4) The outline of coverage may include any other information that the insurer considers relevant
21 to the ~~applicants~~ applicant's selection of an appropriate group disability policy.

22 (5) An insurer or producer shall provide to an individual, upon request, an outline of coverage for
23 any health benefit product marketed to the general public. The outline of coverage provided under this
24 subsection may exclude the statement of the estimated periodic premium to be paid by the insured.

25 (6) An outline of coverage must also be sent to an ~~employer~~ EMPLOYEE when an ~~employer~~ EMPLOYEE
26 is sent a certificate of insurance."

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28 **Section 4.** Section 33-31-111, MCA, is amended to read:

29 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
30 provided in this chapter, the insurance or health service corporation laws do not apply to a health

1 maintenance organization authorized to transact business under this chapter. This provision does not apply
 2 to an insurer or health service corporation licensed and regulated pursuant to the insurance or health
 3 service corporation laws of this state except with respect to its health maintenance organization activities
 4 authorized and regulated pursuant to this chapter.

5 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority
 6 or its representatives is not a violation of any law relating to solicitation or advertising by health
 7 professionals.

8 (3) A health maintenance organization authorized under this chapter is not practicing medicine and
 9 is exempt from Title 37, chapter 3, relating to the practice of medicine.

10 (4) This chapter does not exempt a health maintenance organization from the applicable certificate
 11 of need requirements under Title 50, chapter 5, parts 1 and 3.

12 (5) This section does not exempt a health maintenance organization from the prohibition of
 13 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701
 14 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of
 15 33-3-308 and 33-3-701 through 33-3-704.

16 (6) This section does not exempt a health maintenance organization from:

17 (a) prohibitions against interference with certain communications as provided under chapter 1, part
 18 8;

19 (b) the provisions of Title 33, chapter 22, part 19;

20 (c) the requirements of 33-22-134 and 33-22-135;

21 (d) network adequacy and quality assurance requirements provided under chapter 36; or

22 (e) the requirements of Title 33, chapter 18, part 9.

23 (7) Chapter 1, parts 12 and 13, of this title, 33-3-431, 33-15-308, 33-22-131, 33-22-136,
 24 33-22-141, 33-22-142, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-521, 33-22-523,
 25 33-22-524, 33-22-526, and 33-22-706 apply to health maintenance organizations."

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27 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that
 28 matured, penalties that were incurred, or proceedings that were begun before ~~October 1, 2001~~ JANUARY
 29 1, 2002.

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