

DRAFT PROPOSAL to the 2011 MONTANA LEGISLATURE

IMMEDIATE MARKET REFORMS

The Montana Commissioner of Securities and Insurance proposes to adopt the immediate market reforms included in the Patient Protection and Affordable Care Act, which became the federal law on March 23, 2010. **This law preempts state insurance laws to the extent that if a state law falls below the minimum federal “floor” of consumer protection, then that law is preempted by the federal standard and the federal standard will control.** State laws can be more protective, but not less protective. The US Department of Health and Human Services created a new office called the Office of Consumer Information and Insurance Oversight (OCIO). **It is expected that the OCIO will enforce federal health insurance law in a state that does not adopt and enforce the minimum federal standards for private health insurance.**

The following is a list of significant minimum federal standards that are in effect for plan years following renewal after September 23, 2010. **Health plans:**

- 1) may not establish lifetime limits on the dollar value of essential benefits;**
- 2) may not establish restrictive annual limits on essential benefits** (except grandfathered individual plans and the restricted amounts are phased in to 2014);
- 3) may not rescind coverage** (except for fraud or intentional misrepresentation of material fact);
- 4) must extend dependent coverage to adult children up to age 26;**
- 5) may not impose any preexisting condition exclusions on an individual under age 19** (except grandfathered individual plans) ;
- 6) must provide coverage without cost-sharing for preventative services recommended by the US Preventative Services Task Force** (except grandfathered plans); **and**
- 7) all documents must have a uniform explanation of coverage containing standardized definitions developed by the NAIC and approved by the Secretary of HHS** (except grandfathered plans).

Essential benefits are listed in the act and will be further defined by federal regulation. “Grandfathered” plans are health plans that were issued prior to March 23, 2010 and that remain substantially unchanged as defined by the federal regulations.

The CSI proposes to amend, as necessary, existing health insurance statutes in order to comply with the minimum federal floor of consumer protections, so that the State of Montana can retain its ability to be the primary regulator of private health insurance and thereby more effectively protect its consumers.

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