Glenn Pomeroy
Commissioner of Insurance

DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

BULLETIN 95-4

TO: All Health Insurance Carriers

FROM: Glenn Pomeroy, Commissioner

DATE: November 17, 1995

SUBJECT: Interpretive Guidelines Regarding House Bill No. 1050

This bulletin clarifies the effect of Section 22 of House Bill No. 1050 on all health policies issued or renewed in North Dakota after July 31, 1995. This section is codified at N.D.C.C. Chapter 26.1-36.4. The sections cited below are sections of this chapter.

APPLICABILITY

N.D.C.C. Chapter 26.1-36.4 applies to all health insurance policies, certificates, and subscriber contracts issued or renewed in this state except supplemental coverage as defined in N.D.C.C. § 26.1-36.4-02(2).

PREEXISTING CONDITION PROVISION

The language in N.D.C.C. § 26.1-36.4-03 alters portions of N.D.C.C. § 26.1-36-04(d) for individual coverage and N.D.C.C. § 26.1-36-05(5) for group coverage. The new preexisting condition limitation states that any condition that was first diagnosed or treated within six months prior to the effective date of the coverage is not covered for the first twelve months following the effective date of coverage. The changes from prior law are:

1. For individual coverage, the condition must be diagnosed or treated prior to coverage, rather than simply manifest itself prior to coverage;

2. For group coverage, the condition must be diagnosed or treated prior to coverage, rather than simply exist prior to coverage;

3. Six months replaces five years for individual and twelve months for group in prior law; and

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4. Twelve months replaces two years for individual and twelve/twenty-four months for group in prior law.

This new law does not change a company's ability to offer coverage with an exclusion rider which names or specifically describes the condition to be excluded.

PORTABILITY

Coverage for a particular service is to be provided by a policy that "follows" another policy with all of the following conditions:

1. The previous policy must satisfy the definition of "qualifying previous coverage" as stated in N.D.C.C. Chapter 26.1-36.3;

2. Any waiting period enforced by the employer is subtracted from the total period "between" coverages in determination of the ninety-day limit;

3. A new preexisting condition provision may be applied to any service in the new policy that was not covered in the previous policy; and

4. The preexisting condition provision in the new policy is cancelled for a period of time that equals the period of coverage from the previous coverage.

GUARANTEED CONTINUABLE

Policies issued after July 31, 1995, must be guaranteed continuable. A necessary condition for a company to nonrenew such an individual policy form in this state is that the insurer nonrenews ALL individual policy forms in North Dakota. Likewise, if the insurer elects to nonrenew a group policy form, then a necessary condition is that the insurer nonrenews all group policy forms in this state. If either option is exercised, then the company may not offer new business in the individual or group market in this state for five years.

MODIFIED COMMUNITY RATING

A company may choose to use the rating variables geography, family composition, healthy lifestyles, and benefit variations to determine premium rates. These variables would not be subject to the ratio limitations stated.

GP/njb