



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-095

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

Is it assumed that long-term care and Medigap policies are not included in the rule (see Ins 3.34 (2) (a)), despite the applicable definitions of disability insurance policies and self-insured health plans, because in practice the care of dependent children under long-term care and Medigap policies is unlikely to be invoked. Nevertheless, has the office considered its statutory authority for the exclusions?

2. Form, Style and Placement in Administrative Code

a. It seems redundant in s. Ins 3.34 (2) (a) to state that the section also applies to limited scope plans, including vision and dental plans, given the preceding definitions in the paragraph. If it is determined that clarification in this regard is desirable, perhaps a note to the paragraph is preferable.

b. In s. Ins 3.34 (a), the introduction should be an undesignated introductory clause and subs. 1. and 2. should be pars. (a) and (b), respectively. In addition, “shall” should be substituted for “must.” [See also the use of the word “must” in subs. (5) (d) 2. to 4. and (6) 2. a. and b.]

c. It is suggested that s. Ins 3.34 (5) (c) be redrafted along the following lines:

Ins 3.34 (5) (c) Insurers offering individual disability insurance may individually rate the eligible adult child and apply preexisting condition waiting periods consistent with s. 632.76 (2) (ac) 2.,

Stats., and may apply elimination riders to the eligible adult child, but may not do either of the following:

1. Deny coverage to an eligible adult child when the applicant or insurer requests coverage.
2. Otherwise limit coverage if such limitations result in coverage that is illusory.

It is suggested that s. Ins 3.34 (5) (d) (intro.) be worded as follows: “All of the following apply to insurers offering group disability insurance and self-insured health plans:”.

d. Section Ins 3.34 (6) (a) 1. should be rewritten to read:

Ins 3.34 (6) (a) 1. The adult child has not been called to federal active duty in the National Guard or in a reserve component of the U.S. Armed Forces; the adult child meets the requirements of s. 632.885 (2) (a) 1. and 2. Stats.; and the adult child is not eligible for his or her employer-sponsored coverage or his or her employer does not offer health insurance to its employees.

Similarly, sub. (6) (a) 2. (intro.) should be rewritten to read: “The adult child has been called to federal active duty in the National Guard or in a reserve component of the U.S. Armed Forces and all of the following conditions are met:”.

e. In SECTION 2, the correct statutory cross-reference is “s. 601.41, 601.64, 601.65, or 628.10, Stats., or ch. 645, Stats.”

f. See s. 1.02 (4), Manual, for the correct method of stating the effective date of a rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the last paragraph of the plain language analysis, the second sentence is unclear and should be rewritten.

b. In item 6. at the rule preface, the first comma in the second sentence should be replaced by the word “and.”

c. In item 9. of the rule preface, the word “effect” should be replaced by the word “affect.”

d. In s. Ins 3.34 (3) (b), “employer sponsored” should be hyphenated.

e. In s. Ins 3.34 (5) (a), should more specificity be given to what constitutes a “special enrollment opportunity”? In the second sentence of the paragraph, “or not” can be eliminated.

f. In s. Ins 3.34 (5) (b) 3., it appears that “to” should precede “demonstrate.”

g. In s. Ins 3.34 (5) (d) 4., the last sentence should be rewritten to read:

The pre-existing condition waiting period applicable to the eligible adult child shall be applied to the adult child in the same manner as applied to any other applicant or eligible dependent.