

Chapter Ins 22

LEGAL EXPENSE INSURANCE

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Ins 22.01 Purpose. (1) **FINDINGS.** The commissioner of insurance finds that certain plans of legal expense coverage, although they may constitute insurance plans, do not require regulation by the commissioner of insurance. The conduct of the lawyers is regulated by the state supreme court and, given the minimal coverage aspects of these plans, they do not require regulation by the commissioner. All other forms of legal expense insurance are subject to full insurance regulation.

(2) **PURPOSE.** This section exempts certain legal expense insurance from regulation and limits the regulation of other legal expense insurance plans.

(3) **SCOPE.** This chapter applies to all legal expense insurance written in the state of Wisconsin.

(4) **STATUTES INTERPRETED.** Wisconsin Statutes interpreted and implemented by this rule are: ss. 600.01 (b) 5., 600.13, 601.41, 618.21, 623.11, 623.12, and 628.34 (12).

(5) **DEFINITIONS.** (a) "Commissioner" means the commissioner of insurance.

(b) "Insurer" means any person doing an insurance business in the state as defined in s. 618.02, Stats.

(c) "Legal expense insurance" means the contractual obligation to provide specific legal services or to reimburse for specific legal expenses in consideration of specified payment for an interval of time, regardless of whether the payment is made by the beneficiary individually or by a third person for the beneficiary but does not include the provision of, or reimbursement for, legal services incidental to other insurance coverages.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Ins 22.02 Exemptions. The provisions of chs. 600 to 655, Stats., do not apply to:

(1) Any lawyer referral service operated by the Wisconsin state bar or a local bar association.

(2) The furnishing of legal assistance by labor unions or other employee organizations to their members for matters relating to employment or occupation.

(3) The furnishing of legal assistance to members or their dependents by a church, cooperative, educational institution, credit union, or organization of employees if:

(a) The organization is established primarily for purposes other than to obtain insurance or to provide legal assistance or both;

(b) The organization contracts directly with a lawyer or law firm for the provision of legal services; and

(c) The administration and marketing of the legal services are conducted wholly by the organization and solely to individuals who are members of the organization.

(4) Employee welfare benefit plans to the extent that state laws are superseded by the Employee Retirement Income Security Act of 1974, 29 USC s. 1144, if evidence of exemption from state laws is shown to the commissioner.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Ins 22.03 Limited regulation. (1) Legal expense insurance plans which market plans which comply with all the following provisions are subject only to the requirements listed in subs. (2) and (3):

(a) Except as provided by par. (c), the plan's legal services are limited to advice, consultation, preparation of a simple will or power of attorney or other simple, routine legal documents, and do not include representation in litigation except as provided in sub. (c);

(b) The total annual cost including all fees, charges, or other consideration for one year of coverage under the plan does not exceed \$200 per contract holder;

(c) Legal services other than those described under par. (a) provided under the plan are charged at predetermined or reduced rates which are not substantially below the usual charge by the same attorney for those services, but not less than 70% of the rate usually charged nonparticipants for the same service;

(d) A participant in the plan is not obligated to continue participation in the plan or to make further payments or to pay any fee or penalty to the plan if the participant wishes to withdraw from the plan at any time;

(e) A copy of the legal expense insurance contract and the form of agreement utilized under par. (f) is filed with the commissioner; and

(f) All legal services are to be provided either by partners, members, or employees of the plan or by individuals who have a written agreement to provide legal services to plan participants, which agreement includes provisions which:

1. Waive any liability of plan participants for compensation for services provided by the contractor if the services are covered by the plan; and

2. Require the legal services must be rendered to the participants regardless of any breach of the contract by the plan including, but not limited to, the plan's failure to make payments or the plan's insolvency.

(2) Any plan described in sub. (1) is subject to only the following statutes and any related administrative rule:

(a) Sections 601.41 to 601.45, Stats.;

(b) Sections 601.61 to 601.73, Stats.;

(c) Sections 628.34 to 628.46, Stats.;

(d) Chapter 630, Stats.; and

(e) Section 631.36, Stats.

(3) Any plan described in sub. (1) shall reply promptly in writing or other designated form supplying information requested by the commissioner in writing.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Ins 22.04 Plans included. Any legal expense insurance contract made by attorneys-at-law or law firms which are both promoted by mass-marketing techniques and charge a fee for the plan which is not based on an individual estimate of the nature, quantity, complexity, and amount of services to be provided each client are subject to this chapter unless otherwise exempted by s. Ins 22.02.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.

Ins 22.05 Other legal expense insurance not authorized. This chapter does not authorize an insurer to transact any insurance business, other than that of legal expense insurance exempted under this chapter, unless it is authorized under a certificate of authority issued by the commissioner under the provisions of the ch. 600 to 655, Stats.

Note: This rule does not preempt any plan from compliance with supreme court rules including 11.06.

History: Cr. Register, January, 1989, No. 397, eff. 2-1-89.