

## NEWBORN AND ADOPTED CHILDREN COVERAGE MODEL ACT

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### Section 1. Title

This Act shall be known and may be cited as the Newborn and Adopted Children Coverage Act.

**Drafting Note:** In some states existing statutes may provide the commissioner with sufficient authority to promulgate the provisions of this Act in a regulation format. States should review existing authority and determine whether to adopt this model as an act or adapt it to promulgate as a regulation.

### Section 2. Purpose and Intent

The purpose of this Act is to provide for uniformity of coverage requirements for newborn and newly adopted children and children placed for adoption under both group and individual health benefit plans.

**Drafting Note:** This model was designed to promote the uniformity of coverage for newborn infants under both individual and group health benefit plans. It was proposed by outside organizations to the NAIC as a way to clarify that a plan that provides coverage for dependents should cover a newborn from the moment of birth. *1974 Proc 1 413, 415*. Since its endorsement in 1973, a majority of health benefit plans now provide coverage consistent with the model's intent and purpose for both individual and group health benefit plans. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires, for the group health benefit plans only, health carriers to provide immediate coverage to newborn children from the moment of birth, newly adopted children from the date of adoption and children placed for adoption from the date of placement. This revised model retains the model's purpose to require coverage of newborn children from the moment of birth and extends these coverage requirements for individual health benefit plans to newly adopted children and children placed for adoption, including preexisting exclusion provision requirements.

### Section 3. Definitions

For purposes of this Act:

- A. "Commissioner" means the Commissioner of Insurance.

**Drafting Note:** Use the title of the chief insurance regulatory official wherever the term "commissioner" appears. If the jurisdiction of certain health carriers, such as health maintenance organizations, lies with some state agency other than the insurance department, or if there is dual regulation, a state should add language referencing that agency to ensure the appropriate coordination of responsibilities.

- B. "Covered benefits" or "benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.
- C. "Covered person" means a policyholder, subscriber, enrollee or other individual participating in a health benefit plan.
- D. "Dependent" shall be defined in the same manner as in [insert reference to state insurance law defining dependent].

**Drafting Note:** States without a statutory definition of dependent may wish to use the definition below. If using the suggested definition, status should insert a maximum age for student dependents that is consistent with other state laws. States also may wish to include other individuals defined as dependents by state law. The term child below is not intended to be limited to natural children of the covered person.

"Dependent" means a spouse, an unmarried child under the age of [nineteen (19)] years, an unmarried child who is a full-time student under the age of [insert maximum age] and who is financially dependent upon the covered person, and an unmarried child of any age who is medically certified as disabled and dependent upon the covered person.

- E. “Health benefit plan” means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.
- F. “Health care services” means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease.
- G. “Health carrier” means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or health care services.
- H. “Health maintenance organization” means a person that undertakes to provide or arrange for the delivery of health care services to covered persons on a prepaid basis, except for a covered person’s responsibility for copayments, coinsurance or deductibles.

**Section 4. Applicability**

- A. Except as provided in Subsection B, this Act shall apply to health benefit plans that provide coverage for a dependent of a covered person.
- B. The provisions of this Act shall not apply to a health benefit plan that provides coverage only for a specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity or other fixed indemnity coverage, long-term care insurance, as defined by [insert reference in state law that defines long-term care insurance], vision care or any other supplemental benefit or to a Medicare supplement policy, coverage under a plan through Medicare, Medicaid or the federal employees health benefits program, any coverage issued under Chapter 55 of Title 10, U.S. Code and any coverage issued as supplemental to that coverage, any coverage issued as supplemental to liability insurance, workers’ compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group blanket or individual basis.

**Section 5. Coverage Requirements**

- A. Each health benefit plan subject to this Act shall provide coverage to:
  - (1) A newborn child of a covered person from the moment of birth; or
  - (2) A newly adopted child of a covered person from the earlier of:
    - (a) The date of placement for the purpose of adoption and continues in the same manner as other dependents of the covered person unless the placement is disrupted prior to legal adoption and the child is removed from placement;
    - (b) The date of entry of an order granting the covered person custody of the child for purposes of adoption; or
    - (c) The effective date of adoption.
- B. To the extent the health care service or treatment is a covered benefit under the health benefit plan and the birth, adoption or placement of adoption described under Subsection A occurs while the covered person is eligible for coverage under the health benefit plan, the coverage required under Subsection A:
  - (1) Shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities; and
  - (2) Is not subject to any preexisting condition exclusion.

**Section 6. Notification Requirements**

A. For a newborn child:

- (1) If payment of a specific premium or subscription fee is required to provide coverage for a newborn child, as described in Section 5 of this Act, the health benefit plan may require the covered person to notify the health carrier of the birth of the child and furnish payment of the required premium or fees be furnished to the health carrier within sixty (60) days after the date of birth.
- (2) If notice is not provided, the health carrier may refuse to continue coverage for the child under the health benefit plan beyond the sixty-day period unless within four (4) months after the birth of the child the covered person makes all past-due payments and in addition pays interest on the payments at the rate of 5 1/2% per year.
- (3) If payment of a specific premium or subscription fee is not required to provide coverage for a newborn child under the health benefit plan, the health carrier may request notification of the birth of the child, but shall not deny or refuse to continue coverage if the covered person does not furnish the notice.

B. For a newly adopted child or child placed for adoption:

- (1) If payment of a specific premium or subscription fee is required to provide coverage under the health benefit plan for a newly adopted child or child placed for adoption, as described in Section 5 of this Act, the health benefit plan may require the covered person to notify the health carrier of the adoption or placement for adoption and furnish payment of the required premium or fees to the health carrier within sixty (60) days after coverage is required to begin under Section 5A(2) of this Act.
- (2) If the covered person fails to provide the notice or make payment within the sixty-day period, the health carrier shall treat the adopted child or child placed for adoption no less favorably than it treats other dependents, other than newborn children, who seek coverage at a time other than when the dependent was first eligible to apply for coverage.

**Section 7. Regulations**

The commissioner may promulgate regulations to carry out the provisions of this Act. The regulations shall be subject to review in accordance with [insert statutory citation providing for administrative rulemaking and review of regulations].

**Section 8. Penalties**

A violation of this Act shall [insert appropriate administrative penalty from state law].

**Section 9. Effective Date**

The requirements of this Act shall apply to all health benefit plans delivered or issued for delivery in this state more than 120 days after the effective date of the Act.

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*Chronological Summary of Action (all references are to the Proceedings of the NAIC)*

*1974 Proc. I 12, 14, 405, 413, 425-426 (endorsed but not adopted).*

*2005 Proc. 1<sup>st</sup> Quarter 261-262 (amended and adopted as an NAIC model by the parent committee).*

*2005 Proc. 2<sup>nd</sup> Quarter 49, 53-56 (reprinted and adopted by the Plenary).*