***Chair Draft Suggested Indemnity Provision Language Revisions***

Comments on Suggested Revisions

**(Assuming the chair suggested revisions are accepted)**

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| **B. Hospital Indemnity or Other Fixed Indemnity Coverage**  **(1) “Hospital indemnity or other fixed indemnity coverage” provides a benefit for hospital confinement or another health-related event based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations.**  **(2) “Hospital indemnity coverage” may provide a single lump sum benefit for hospital confinement of not less than $[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than $[X] per day and not less than thirty one (31) days during each period of confinement for each person insured under the policy.**  **(3) Coverage shall not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.**  **Drafting Notes:** Hospital indemnity or other fixed indemnity coverage is recognized as supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the *Coordination of Benefits Model Regulation* states that the definition of a plan (for the purposes of coordination of benefits)…shall not include individual or family insurance contracts….” States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.  For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether an indemnity product’s benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as a replacement for major medical coverage. | |
| **ACLI** | (1) “Hospital indemnity or other fixed indemnity coverage” may include but is not limited to a benefits for hospital confinement or another health-related events based on a fixed dollar amount or fixed percentage, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations. |
| **AHIP** | (1) “Hospital indemnity or other fixed indemnity coverage” provides a benefit for hospital confinement or another specified event based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage, and consistent with the requirements for excepted benefits under 42 U.S.C. §300gg-91(c)(3) and its implementing regulations.  (2) “Hospital indemnity coverage” may provide a single lump sum benefit for hospital confinement of not less than $[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than $[X] per day for each person insured under the policy. |
| **Health Benefits Institute (HBI)** | \*\*\*\*\*  (2) “Hospital indemnity coverage” may provide a single lump sum benefit for hospital confinement of not less than $[X], and/or a daily benefit for hospital confinement on an indemnity basis in an amount not less than $[X] per day and not less than [X] days during each period of confinement for each person insured under the policy. |
| **NAIC consumer representatives** | \*\*\*\*\*  (3) Coverage shall not be excluded due to a preexisting condition for a period greater six (6) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.  **Drafting Notes:** Hospital indemnity or other fixed indemnity coverage is recognized as supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the *Coordination of Benefits Model Regulation* states that the definition of a plan (for the purposes of coordination of benefits)…shall not include individual or family insurance contracts….” States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.  For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether consumers could reasonably perceive an indemnity product’s benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as a replacement for major medical coverage.  **Drafting Note**: In setting the minimum daily or lump sum benefit amounts, states should examine the extent to which the benefit amount is in line with a reasonable expectation of a consumer’s out‐of‐pocket costs. State regulators should also examine these benefit amounts to determine whether they could reasonably be construed as violating the state’s *Unfair Trade Practices Act* [#880]. |
| **William G. Schiffbauer Law Office** | B. Hospital Indemnity or Other Fixed Indemnity Coverage  (1) In General. “Hospital indemnity or other fixed indemnity coverage” provides benefits for specified events based on a fixed dollar amount, regardless of the amount of expenses incurred, without coordination with any other health coverage.  (2) Hospital Indemnity Coverage. “Hospital indemnity coverage” may provide a single lump sum benefit fixed dollar benefit for hospital confinement and/or a fixed dollar daily benefit for hospital confinement in addition to benefits for other specified events on an indemnity basis.  (3) Other Fixed Indemnity Coverage. Provides benefits for specified events based on a fixed dollar amount, regardless of the amount of expenses incurred, and without coordination with any other health coverage.  (4) Preexisting Conditions. Coverage shall not be excluded due to a preexisting condition for a period greater than twelve (12) months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.  **Drafting Notes:** Hospital indemnity or other fixed indemnity coverage is supplemental coverage. Any hospital indemnity or other fixed indemnity coverage, therefore, must be payable regardless of other coverage. The same general rule should apply so that group insurance cannot reduce its benefits because of the existence of hospital indemnity or other fixed indemnity coverage. Section 3H(4) of the *Coordination of Benefits Model Regulation* states that the definition of a plan (for the purposes of coordination of benefits)…shall not include individual or family insurance contracts….” States should consider using this language to prevent benefit reductions that could otherwise occur because of the existence of hospital indemnity or other fixed indemnity coverage purchased by the insured.  For indemnity products that are triggered by a variety of health events and provide a variety of daily benefit dollar amounts, regulators should examine the amount payable per day and the total amount payable per year or lifetime to determine whether an indemnity product’s benefits resemble comprehensive major medical coverage. Indemnity products should not be developed, marketed, or sold as an alternative to, or substitute for, or replacement for major medical coverage. It is the marketing of supplementary coverage as an alternative, substitute or replacement for major medical coverage that presents the unfair trade practice, and not the supplementary coverage itself when it is offered and marketed as supplementary excepted benefits coverage. |
| **Vermont Division of Insurance** | These proposed changes broaden the definition of indemnity to match the excepted benefit rules for individual coverage. Vermont uses this regulation to regulate group supplemental health insurance as well. If any state used it for that purpose perhaps a drafting note should be added to address that these standards are designed for individual insurance and that the group excepted benefit rule should be consulted for states using this regulation for group insurance. 45 CFR 146.145. |