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Technical Comments on the Proposed Text for Model Regulation 171

Dear Jolie:

I am writing on my own behalf in response to the invitation to submit comments on the proposed draft revisions to Model 171 dated October 12, 2023. My comments relate solely to the proposed language and drafting notes for certain excepted benefits products. Thank you for all of your hard work, and for your consideration of these technical comments and suggested changes.

Sincerely,



William G. Schiffbauer, Esq.  
Attachment

## COMMENTS ON REVISIONS TO NAIC MODEL 171 - 10/12/23 DRAFT

### Section 5. Definitions

1. Page 2. Add: "C. Excepted Benefits means coverage listed at section 2791(c) of the Public Health Service Act (or subsequently added by regulation where authorized)", or something similar. The Model Act refers to "excepted benefits" in Section 5, and in several drafting notes.

### Section 6. Policy Definitions

1. Page 6. "Sickness". Add ", illness, or" after 'means sickness'.

### Section 7. Prohibited Policy Provisions

1. Page 7. In (2) and (3) Use "accident-only" instead of "accident".

### Section 8. Supplementary and Short-Term Health Insurance Minimum Standards for Benefits

1. Page 10. At top refers to 5.C. - Add "categories of excepted benefits".

2. Page 13. "Hospital indemnity or other fixed indemnity coverage". Conform to the same consensus text used in the disclosures. Eliminate use of "triggered by".

3. Page 13. Add to the drafting note at end. "State insurance regulators can address this issue by requiring that this coverage is not offered, marketed, or sold as a substitute for, or alternative to, comprehensive major medical coverage, and requiring the use of disclosures that this coverage is supplementary insurance."

4. Page 14. First drafting note. The phrase "supplemental" should be "supplementary". The phrase "supplementary" means "in addition to" rather than to wrap around an existing coverage such as Medigap being supplemental to Medicare.

5. Page 14. Second drafting note. Change the word "resemble" (ambiguous - means "seems like" for example and is ambiguous) - perhaps use "could be mistaken for" instead. Also, should change "developed" to "offered" ("developed" is an internal product creation process).

6. Page 17. Accident-Only Coverage. Add after "disability" the phrase ", injury". This would tie back to the "Policy Definitions" on Page 4 that clarify the "only" in Accident-Only - means benefits are paid only when the cause is an accident, and not when caused by sickness, illness, disease, workers compensation, etc. - the phrase "only" means the covered injury is caused only by an accident and not sickness, illness, disease, workers compensation, etc.

7. Page 17. Specified Disease Drafting Note. Question - should states prohibit individuals covered by Medicaid from purchasing a specified disease policy? Medicaid does not cover all expenses any more than a commercial health insurance policy does - such as travel, parking, hotel, etc. State insurance regulators can address this issue by requiring that this coverage is

not offered, marketed, or sold as a substitute for, or alternative to, comprehensive major medical coverage, and requiring the use of disclosures that this coverage is supplementary insurance.

8. Page 18. Drafting Note at top. The phrase "supplemental" should be "supplementary".

9. Page 22. First Drafting Note. Add at end: "State insurance regulators can address this issue by requiring that this coverage is not offered, marketed, or sold as a substitute for, or alternative to, comprehensive major medical coverage, and requiring the use of disclosures that this coverage is supplementary insurance."

10. Page 23. Second Drafting Note - Limited Benefit Health Coverage. Strike the phrase "not described in this section could" and instead add "that are not excepted benefit-type products will". State insurance regulators can address this issue by requiring that this coverage is not offered, marketed, or sold as a substitute for, or alternative to, comprehensive major medical coverage, and requiring the use of disclosures that this coverage is supplementary insurance.

### Section 9. Required Disclosure Provisions

1. Page 25. General Rules. In (1) the phrase "shall be available" is ambiguous. Perhaps it should say instead "shall be provided".

2. Page 25. General Rules. In (2)(d) the phrase "in close proximity to" is ambiguous. Perhaps it should say instead "directly above".

3. Page 31. Outline of Coverage Requirements Drafting Note. Typo - "form" should be "from".

4. Page 35. Hospital Indemnity or Other Fixed Indemnity Coverage (Outline of Coverage) in subparagraph (2) the description should conform to the consensus disclosure language by striking "is designed to" and insert "pays" and other conforming language from page 26.

5. Page 38. Accident-Only Coverage (Outline of Coverage) in subparagraph (2) add the phrase ",or injury". This would tie back to the "Policy Definitions" on Page 4 that clarify the "only" in Accident-Only - means benefits are paid only when the cause is an accident, and not when caused by sickness, illness, disease, workers compensation, etc. - the phrase "only" means the covered injury is caused only by an accident and not sickness, illness, disease, workers compensation, etc.

6. Page 39. Specified Disease or Specified Accident Coverage (Outline of Coverage) in subparagraph (2) should conform to the consensus disclosure language by striking "is designed to" and insert "pays" and other conforming language from page 27.

7. Page 40. Section H - Needs a title, i.e. "Short-Term, Limited Duration Coverage (Outline of Coverage)".