



February 7, 2020

Commissioner Glen Mulready, Co-Chair  
Melinda Domzalski-Hansen, Co-Chair  
Accident and Sickness Insurance Minimum Standards (B) Subgroup  
National Association of Insurance Commissioners  
444 North Capitol Street, NW, Suite 700  
Washington, DC 20001

Via e-mail: [jmatthews@naic.org](mailto:jmatthews@naic.org)

Dear Co-Chairs Mulready and Domzalski-Hansen:

On behalf of America's Health Insurance Plans (AHIP),<sup>1</sup> we offer the following comments on Sections 6 and 7 of the staff working draft of NAIC Model 171, the *Model Regulation to Implement the Supplementary and Short-Term Health Insurance Minimum Standards Model Act*.

### **General Comments**

AHIP would like to offer the following general comments – applicable to Sections 6 and 7, as well as the remainder of the Model's Sections.

### ***Adhere to the 4 Key Principles Established by the Subgroup***

We believe it is important to recognize and adhere to the four key principles the Subgroup adopted as guideposts for its ongoing discussion of Model 171 revisions:

- We will not reopen or relitigate issues that were already discussed and decided on during the Model 170 revision.
- We will acknowledge up front that Model 171 reflects minimum standards. This recognizes states should have the flexibility to decide whether the minimum standards in Model 171 should be modified if appropriate for their specific markets.
- We will exclude details or topics that were not included in Model 170.
- We will not introduce changes or new requirements that could be disruptive or lead to diminished consumer access and choice. Supplemental health insurance markets, which have been and continue to be governed by Model 171, are stable and working well and should be allowed to continue to do so.

### ***Recognize Differences Between Short-Term Limited Duration Insurance (STLDI) and Supplemental Health Insurance***

The *Supplementary and Short-Term Health Insurance Minimum Standards Model Act* (Model 170) reflects a clear distinction between standards for short-term limited duration health insurance and the supplemental coverages governed under the Model. AHIP strongly urges the Subgroup to maintain

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<sup>1</sup> AHIP is the national association whose members provide coverage for health care and related services to hundreds of millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers. Visit [www.ahip.org](http://www.ahip.org) for more information.

this distinction in the revised Model 171. This means that distinct minimum standards for supplemental health insurance and STLDI should be incorporated into Model 171 as separate sections (recommended section additions and renumbering below):

- Section 6. Prohibited Policy Provisions for Supplementary Health Insurance
- Section 7. Prohibited Policy Provisions for Short-Term Health Insurance
- Section 8. Supplementary Health Insurance Minimum Standards for Benefits
- Section 9. Short-Term Health Insurance Minimum Standards for Benefits

This would continue through the remainder of the Model as follows; however, for purposes of this letter, we will focus on the Sections above.

- *Section 10. Required Disclosure Provisions for Supplementary Health Insurance*
- *Section 11. Required Disclosure Provisions for Short-Term Health Insurance*
- *Section 12. Requirements for Replacement of Individual Supplementary Health Insurance*
- *Section 13. Requirements for Replacement of Individual Short-Term Health Insurance*
- *Section 14. Separability*

Separating the sections will address key issues, such as any given section not defining to what product any given provision would apply. As we've noted previously, not all the provisions in each section reasonably pertain to supplemental products. Some are relevant only for expense-incurred products. For example, STLDI is not a HIPAA-excepted benefit. It is intended to serve as a substitute for major medical. As such, it should not be lumped in with HIPAA-excepted supplemental coverages intended to supplement comprehensive medical coverage.

While STLDI is significantly different from supplemental health insurance products, in some ways it is also distinct from ACA coverages. These products serve different yet important purposes, particularly bridging a gap in coverage for some individuals or serving as an affordable alternative for individuals who are unsubsidized or uninsured and cannot afford ACA coverage. We encourage the Subgroup to recognize that subjecting STLDI plans to requirements applicable to ACA plans would increase premiums for these plans.

### ***Focus on Addressing Product Standards Instead of Issues Outside the Scope of the Model Act and Regulation***

AHIP supports the Subgroup's agreement to ensure that Model 171 continues to reflect minimum insurance product standards only. It is also important to remember that this Model is not intended to address marketing standards, medical loss ratio requirements, or unfair trade practices – there are other NAIC Models that specifically address those issues. As such, we encourage the Subgroup to ensure that provisions or issues that are not relevant to this Model Regulation are not entertained and/or incorporated.

### **Technical Comments**

While we strongly recommend the Subgroup separate and renumber the Sections as they are listed above, for ease of reference, our technical comments are organized based on the current Sections 6 and 7.

### ***Section 6 Comments***

- Remove all references to “short-term health insurance” (except as a citation for the title of the Model) as those products would be addressed under the new Section 7.
- Retain (in subsection C) a 12-month pre-existing condition period for supplemental products to avoid adverse selection issues.
- Include (in subsection D) an additional product allowance for “return of premium” or “cash value” options.
- Maintain (in subsection F) the list of allowable exclusions to avoid adverse selection risk and resulting premium increases. We recommend the Subgroup maintain “incarceration” in the list of allowable exclusions for disability income protection policies because incarceration precludes the operation of key policy provisions (e.g., return-to-work provisions). We also recommend clarification as to whether “aviation” connotes non-commercial or recreational aviation.

### ***Section 7 Comments***

- Remove all references to “short-term health insurance” (except as a citation for the title of the Model) as those products would be addressed under the new Section 9.
- Remove “or certificate” from the first paragraph; otherwise, the Model creates a burdensome requirement that state insurance departments must review each certificate issued to a group member under a policy.
- Clarify under subsection A(6) that if cancellation is due to non-payment of premium, the pregnancy trigger requirement does not apply.
- Modify the minimum time period of a disability income policy under subsection C(3) from 6 months to 3 months. The 3-month option is popular in the states that allow it.
- Remove the dollar amounts under subsection B(1), D, E(3)(a) and (b), E(4), E(5), E(6), and F and replace them with brackets [X] so that states can update the amounts according to cost factors in their area.
- Do not include the phrase “other health care professional,” particularly as it relates to specified disease, in subsections E(3) and (4). While we recognize a definition was added for “health care professionals,” it is unclear what is intended beyond that definition and whether those “other” professionals should be providing treatment for specified diseases.

We recognize that once broken down into separate sections, some of the language in Sections 6 and 8 (for supplemental products) would be repeated in Sections 7 and 9 (for STLDI), but it is the best approach to ensure clarity regarding the necessary and disparate treatment of supplemental coverages and STLDI. We would remind members of the Subgroup that Model 171 is intended to reflect minimum standards; otherwise, we will defer to regulators to determine the appropriate provisions to include in the STLDI sections.

In addition to all of the comments provided, we look forward to the opportunity to spend some time discussing options for more robust disclosures so that consumers can make informed decisions regarding their coverage options.

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We appreciate the opportunity to respond to your request for comments. If you have any questions, or would like to discuss any of these comments, please contact us at (202) 861-1497 or contact AHIP consultant Chris Petersen at (202) 247-0316.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Jerbi".

Heather E. Jerbi  
Executive Director, Product Policy

A handwritten signature in black ink, appearing to read "Winthrop S. Cashdollar".

Winthrop Cashdollar  
Executive Director, Product Policy