

PROJECT HISTORY

MODEL REGULATION TO IMPLEMENT THE ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS MODEL ACT (#171)

1. Description of the Project, Issues Addressed, etc.

Amendments to the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)*—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA) and the revisions to its companion model act, the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)*. Therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee.

In 2013, the Regulatory Framework (B) Task Force was charged with reviewing existing NAIC models related to health insurance to determine whether they needed to be amended, considering all the changes made by the ACA. During that review process, Model #170 and its companion model regulation, Model #171, were added to the list of NAIC models to be considered for revision, given the model's provisions for certain types of health insurance plans that would not be permitted under the ACA.

Beginning at the 2014 Fall National Meeting, the Task Force began discussing revisions to Model #170 and Model #171. At the 2015 Spring National Meeting, the Task Force decided, given its other priorities for 2015, specifically with respect to revising the formerly titled *Managed Care Network Adequacy Model Act (#74)*, now the *Health Benefit Plan Network Access and Adequacy Model Act (#74)*, to defer discussing additional revisions to the models until it finished its work on Model #74. The Task Force finished that work in late 2015.

In February 2016, the Task Force established the Accident and Sickness Insurance Minimum Standards (B) Subgroup, with Wisconsin as chair, to begin working on revising Model #170 and Model #171. At the 2017 Spring National Meeting, concerned with the uncertainty of the ACA's future, given congressional proposals to repeal, replace, and/or repair it, the Task Force decided to halt Subgroup meetings until there was more certainty about actions at the congressional level.

At the 2017 Fall National Meeting, the Task Force decided to move forward with discussing revisions to Model #170 and Model #171, and it directed the Subgroup to resume its work in early 2018. The Subgroup completed the revisions to Model #170 in late 2018, which the Executive (EX) Committee and Plenary adopted in February 2019.

The Model #170 revisions removed provisions for certain types of health insurance products that would not be permitted because of the requirements of the ACA leaving only those products considered excepted benefits, and therefore, not subject to the ACA's requirements. The Model #170 revisions also added short-term, limited-duration plans to the model because there was no other vehicle available to add those products and the Subgroup did not want to create a whole new model for them.

Soon after completing its work on Model #170, the Subgroup began considering revisions to Model #171. The Subgroup met every two weeks until it lost one of its co-chairs in December 2019. After a long hiatus since late 2019 due to the loss of a co-chair, the COVID-19 pandemic, and other resource issues, the Subgroup resumed its meetings in June 2021. The Subgroup has been meeting on a regular basis to discuss the comments received on Model #171. The Subgroup completed its review of all the comments received

on Model #171 in September. The Subgroup adopted the revisions to Model #171 during a meeting Oct. 17, 2024. The Regulatory Framework (B) Task Force adopted the revisions on Nov. 4 and the Health Insurance and Managed Care (B) Committee adopted the revisions during a meeting on Nov. 19.

The revisions to Model #171 revise the model for consistency with the revisions to Model #170. The revisions also add standards for short-term, limited-duration (STLD) plans. Because the Subgroup did not want to dictate what benefits and coverages these plans must include, the standards specify that short-term, limited-duration plans must provide the benefits and coverages required by the state. The revisions also clarify provisions on consumer disclosure and outline of coverage requirements making them much more understandable for consumers, including requiring specific language stating that these plans are supplemental and are not intended to be major medical coverage.

2. Name of Group Responsible for Drafting the Model and States Participating

The Accident and Sickness Insurance Minimum Standards (B) Subgroup drafted the revisions to Model #171. At the time of adoption on Oct. 17, 2024, the Subgroup members were: Oklahoma, Co-Chair; Texas, Co-Chair; District of Columbia; Florida; Louisiana; Maine; Missouri; Nebraska; South Carolina; Utah; Vermont; and Washington.

3. Project Authorized by What Charge and Date First Given to the Group

In February 2016, the Task Force established the Accident and Sickness Insurance Minimum Standards (B) Subgroup, with Wisconsin as chair, to begin working on revising Model #170 and Model #171. The Subgroup adopted the revisions to Model #170 in July 2018. Soon after completing its work on Model #170, with Oklahoma and Minnesota as co-chairs, the Subgroup began discussing revisions to Model #171. The Subgroup met every two weeks until it lost one of its co-chairs in December 2019. After a long hiatus starting in late 2019 due to the loss of a co-chair, the COVID-19 pandemic, and other resource issues, the Subgroup, with Oklahoma and Nebraska as co-chairs, resumed its meetings in June 2021. In late 2022, the Subgroup lost Nebraska as co-chair but resumed its meetings in early 2023, with Texas replacing Nebraska as co-chair. The Subgroup continued meeting on a regular basis to discuss the comments received on Model #171. The Subgroup completed its review of all the comments received on Model #171 in September 2024. The Subgroup adopted the revisions to Model #171 during a meeting Oct. 17, 2024.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

Soon after completing its work on Model #170, the Subgroup began considering revisions to Model #171. The Subgroup met every two weeks until it lost one of its co-chairs in December 2019. After a long hiatus since late 2019 due to the loss of a co-chair, the COVID-19 pandemic, and other resource issues, the Subgroup resumed its meetings and discussions of the comments received in June 2021. The Subgroup met on a regular basis to discuss the comments received on Model #171 until it adopted the model revisions Oct. 17, 2024.

During the last few months of 2022, the Subgroup's discussions focused on Section 8—Supplementary and Short-Term Health Minimum Standards for Benefits. This section establishes minimum standards for benefits for the products subject to the model, including accident-only coverage, hospital indemnity or other fixed indemnity coverage, and disability income protection coverage. The revisions also include a new section establishing minimum benefits for STLD plans. The Subgroup completed its discussions of

Section 8 in December 2022, including developing a new subsection establishing minimum benefit standards for STLD plans.

The Subgroup resumed its meetings in February 2023, reviewing and discussing comments received on the following Model #171 sections in this order: 1) the remainder of Section 8, including revisiting the proposed new subsection on STLD plans to discuss the Feb. 24, 2023, comments received on that section; 2) Section 7—Prohibited Policy Provisions; 3) revisit Section 5—Definitions and Section 6—Policy Definitions to reconcile any inconsistencies that may have arisen after the Subgroup’s review of the substantive provisions of Model #171; and 4) Section 9—Required Disclosure Provisions. The Subgroup is completing work on Section 9—Required Disclosure Provisions. In October 2023, the Subgroup completed its review of all the comments received on Model #171. The Subgroup set a public comment deadline of Dec. 1, 2023, to receive comments on the initial draft reflecting its discussions and preliminary revisions to Model #171.

The Subgroup resumed its meetings in January 2024 to discuss the comments received. The Subgroup completed that review in April 2024 and distributed a final draft, dated May 3, to stakeholders in anticipation of adopting the proposed revisions in June. The Subgroup received additional comments on that draft, and as a result, it resumed its meetings in June 2024 to discuss the comments. The Subgroup completed its review of those comments in September 2024 and distributed another final draft in anticipation of adopting the revisions to Model #171 during a meeting in October. The Subgroup adopted the revisions to Model #171 during a meeting Oct. 17, 2024.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers, and legislators was solicited)

Throughout the drafting process the Subgroup solicited comments from stakeholders, which included consumer and industry representatives, as well as state insurance regulators. The Subgroup discussed and reviewed those comments during public meetings. All the comments received were posted on the Subgroup’s webpage. Each proposed revision draft was also posted on the Subgroup’s web page.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group’s response)

Among the issues debated during the drafting process concerned the purpose of excepted benefit products and the fact that they are not intended to be comprehensive major medical coverage. In addressing this issue, the Subgroup enhanced the consumer disclosure provisions and outline of coverage provisions to ensure consumers will be aware that excepted benefit products are not meant to be comprehensive health insurance coverage. The Subgroup also included additional language in the draft highlighting that insurers should not offer, market, or sell excepted benefit products as a substitute for, or alternative to, comprehensive major medical coverage.

In addition, during the drafting process, the Subgroup and stakeholders involved had to keep in mind that the model sets minimum standards, which means the states and insurance carriers can go above them. In addressing another issue that arose during the process concerning potential and recurring federal changes related to hospital indemnity or other fixed indemnity plans and STLD plans, the Subgroup included in the revisions suggestions that, prior to adopting the model revisions, states review any relevant federal regulations, establishing that requirements for these products that could differ from the state’s requirements.

One significant issue discussed and addressed during the drafting process related to the provisions establishing standards for STLD plans, including what benefits should be included. In resolving this issue, the STLD plan provisions rely on a state’s requirements for benefits and coverage under such plans.

Another significant issue discussed concerned a provision in the model that allows plans to exclude mental health and substance use coverage from excepted benefit plans. During this discussion, it was highlighted that these are excepted benefit products, not major medical coverage subject to the ACA’s guarantee issue and preexisting condition exclusion requirements. Excepted benefit plans are medically underwritten and subject to preexisting condition exclusions. It was also noted that this provision is optional, which means states can require such coverage if they feel it is appropriate. In addition, as already noted, for short-term, limited-duration plans, the benefits and coverages for these plans are tied to a state’s requirements. If a state requires these plans to include mental health and substance use benefits, then they must include the coverage. As a compromise to address these concerns, before its adoption of the Model #171 revisions, the Health Insurance and Managed Care (B) Committee added language to a drafting note in Section 7D—Prohibited Policy Provisions making it clear that states should carefully consider whether to permit mental health and substance use coverage exclusions for STLD plans and disability income protection policies given the importance of such coverage. The Committee added similar language to a drafting note in Section 8H—Short-Term, Limited-Duration Health Insurance Coverage.

7. List the key provisions of the model (sections considered most essential to state adoption)

This is not applicable. All the sections are essential to state adoption.

8. Any Other Important Information (e.g., amending an accreditation standard)

This is not an accreditation model.