Draft: 9/11/23

**WORKING DRAFT SECTION 9A PROVISIONS**

**Section 9. Required Disclosure Provisions**

A. General Rules

(1) Any disclosures, and the documents to which they refer, shall be delivered in the written medium the applicant requests. These documents shall be available before the applicant submits a completed application.

(2) (a) All applications, policies, and certificates for coverage of supplementary or short-term health insurance shall include a prominent disclosure statement, as required by this section, that reflects the type of coverage being provided.

(b) The disclosures required by this section may be modified only as approved by the commissioner and as needed to improve the accuracy and clarity of the disclosure.

**Drafting Note:** Because states may have different statutory requirements for short-term, limited duration insurance coverage, states should carefully review the disclosure statement requirements in this section for such coverage to ensure it accurately reflects a state’s specific requirements. States also should be aware that proposed federal regulations for short-term, limited duration insurance coverage and hospital indemnity or other fixed indemnity coverage include specific disclosure statement requirements for these coverages and recognize that the disclosure statement requirements in this section may need to contain additional information as required by applicable state law, rules, or guidance. A state also may need to require disclosure language to reflect any additional requirements a state may have, such as requirements regarding minimum essential coverage or special enrollment periods for expiration or loss of eligibility for this coverage.

(c) The disclosure statement shall be in Sans Serif font, in a font size at least equal to the size type used for headings or captions of sections of the document.

(d) In the application, the disclosure statement shall be placed in close proximity to the applicant’s signature block on the application.

(e) In the policy and certificate, the disclosure statement shall be placed on the first page of the policy or certificate.

(f) In this section, the term “prominent” means one or more methods are used to draw attention to the language, including using a larger font size, leading, underlining, bolding, or italics.

**Drafting Note:** States should review their existing readability and accessibility laws and regulations and any applicable NAIC models to help to ensure the statements above are readable and accessible to potential applicants, including those with disabilities such as blindness or macular degeneration, deafness or hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity, and combinations of these.

(3) For hospital indemnity coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] pays fixed dollar benefits as a result of a covered hospitalization due to a sickness or injury. The benefit amounts are not based on the cost of your medical expenses. These benefits are designed to be paid to the [policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does not replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

**Drafting Note:** The words “fixed dollar benefits” should be prominent.

(4) For other fixed indemnity coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] pays fixed dollar benefits as a result of covered events due to a sickness or injury. The benefit amounts are not based on the cost of your medical expenses. These benefits are designed to be paid to the [policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does not replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

(5) For disability income protection coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] provides periodic payments [weekly, bi-weekly, or monthly] for a set length of specific period of time while you are disabled from a covered sickness or injury. Read the description of benefits provided along with your [enrollment form/application] carefully.”

(6) For accident only coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] pays benefits for covered injuries from a covered accident. It does not provide benefits resulting from sickness. These benefits are designed to be paid to the [policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does not replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

**Drafting Note:** The words “from a covered accident” in the first sentence should be prominent.

(7) For specified disease coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] pays limited benefits as a result of the diagnosis or treatment of a covered disease specified in the [policy] [certificate]. These benefits are designed to be paid to the [policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does not replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

(8) For specified accident coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“This [policy] [certificate] provides benefits for a specifically identified type of accident as named in the policy. It does not provide benefits resulting from sickness. These benefits are designed to be paid to the [policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

(9) For limited benefit coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“The [policy] [certificate] pays limited benefits as a result of a covered event as specified in the [policy] [certificate]. These limited benefits are designed to be paid to the[policyholder] [certificate holder]. They are not intended to be paid directly to providers. This [policy] [certificate] is not major medical insurance and does not replace it. Read the description of benefits provided along with your [enrollment form /application] carefully.”

(10) For limited scope dental coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“The [policy] [certificate] provides dental benefits only. It is not intended to cover all dental expenses. Read your [policy] [certificate] carefully to understand what dental services it covers and any cost-sharing that may be your responsibility.”

**Drafting Note:** The sentence “It is not intended to cover all dental expenses.” should be prominent.

(11) For limited scope vision coverage, the application, policy, and certificate shall include a disclosure statement that reads as follows:

“The [policy] [certificate] provides vision benefits only. It is not intended to cover all vision expenses. Read your [policy] [certificate] carefully to understand what vision services are covered and any cost-sharing that may be your responsibility.”

**Drafting Note:** The sentence “It is not intended to cover all vision expenses or any other healthcare expenses.” should be prominent.

(12) For short-term health insurance, the application, policy, and certificate shall include a disclosure statement that reads as follows:

**“IMPORTANT:** This is short-term health insurance insurance. This is temporary insurance. **It is not comprehensive health insurance.** Read your policy carefully to make sure you understand what is covered and any limitations on coverage.

* This insurance might not cover or might limit coverage for:
* Preexisting conditions; or
* Essential health benefits (such as pediatric, hospital, emergency, maternity, mental health, and substance use services, prescription drugs, or preventive care).
* You will not qualify for federal financial help to pay for premiums or out-of-pocket costs.
* You are not protected from surprise medical bills.
* When this policy ends, you might have to wait until an open enrollment period to get comprehensive health insurance.

Visit HealthCare.gov online or call 1-800-318-2596 (TTY: 1-855-889-4325) to review your options for comprehensive health insurance. If you’re eligible for coverage through your employer or a family member’s employer, contact the employer for more information. Contact the [State] department of insurance if you have questions or complaints about this policy.”

(13) Each policy of individual supplementary or short-term health insurance subject to this regulation, as provided in Section 3A of this regulation, shall include a renewal, continuation or nonrenewal provision. The language or specification of the provision shall be consistent with the type of contract to be issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(14) All riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the policyholder, except if the increased benefits or coverage is required by law. The signature requirement in this paragraph applies to group supplemental health insurance certificates only where the certificate holder also pays the insurance premium.

(15) Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy or certificate and the combined total premium clearly identified as such.

(16) A policy or certificate that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import shall include a definition of the terms and an explanation of the terms in its accompanying outline of coverage.

(17) If a policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and be labeled as “Preexisting Condition Limitations.”

(18) All policies and certificates, except single-premium nonrenewable policies and as otherwise provided in this paragraph, shall have a notice prominently printed in Sans Serif font on the first page of the policy or certificate or attached to it stating clearly that the policy or certificate holder shall have the right to return the policy or certificate within thirty [30] days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the policyholder or certificate holder is not satisfied for any reason. The statement may be made prominent in one or more methods to draw attention to the language, including using a larger font size, leading, underlining, bolding, or italics.

**Drafting Note:** This section should be included only if the state has legislation granting authority.

(19) If age is to be used as a determining factor to reduce the benefits made available in the policy or certificate as originally issued, that fact shall be prominently set forth in the outline of coverage. The statement may be made prominent in one or more methods to draw attention to the language, including using a larger font size, leading, underlining, bolding, or italics.

**NOTE TO THE SUBGROUP: THE SUBGROUP SAID IT WOULD REVIEW THE ABOVE PROVISION TO DETERMINE WHERE IT BELONGS IN THIS SECTION ORGANIZATIONALLY.**

(20) If a policy or certificate contains a conversion privilege, it shall comply, in substance, with the following: The caption of the provision shall be “Conversion Privilege” or words of similar import. The provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person who may exercise the conversion privilege. The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

(21) (a) Outlines of coverage delivered in connection with policies defined in this regulation as hospital indemnity or other fixed indemnity (Section 8B), specified disease (Section 8E), or limited benefit health coverages (Section 8G) to persons eligible for Medicare by reason of age shall contain, in addition to the requirements of Subsections D and F, the following language, which shall be printed on or attached to the first page of the outline of coverage:

This is not a Medicare Supplement policy. If you are eligible for Medicare, ask the company for the Guide to Health Insurance for People with Medicare.

**Drafting Note:** The sentence “This is not a Medicare Supplement policy.” should be prominent. It may be made prominent in one or more methods, including using a larger font size, leading, underlining, bolding, or italics.

**Drafting Note:** States may want to review the disclosure language in paragraph (21)(a) above for consistency with the consumer disclosure language in Appendix C of the *Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act* (#651).

(b) An insurer shall deliver to persons eligible for Medicare any notice required under [insert reference to state law equivalent of Section 17D of the *Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act*].

**Drafting Note:** States that permit individuals under the age of 65 with Medicare coverage to purchase Medicare supplement policies to review how they should provide the notices required under paragraph (21)(a) to these individuals.

(22) Insurers shall give a person applying for specified disease insurance a Buyer’s Guide approved by the commissioner at the time of application enrollment and shall obtain all recipients’ written acknowledgement of the guide’s delivery.