

May 27, 2022

Commissioner Laura Arp, Co-Chair
Andrew Schallhorn, 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

Dear Co-Chairs Arp and Schallhorn:

On behalf of America's Health Insurance Plans (AHIP),¹ we offer the following comments on the disability income protection coverage provisions of Section 8 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*.

Comments

Recognize Differences Between Issuance of Individual and Group Disability Income Protection Policies

The first paragraph under Section 8 notes that a supplementary policy or certificate cannot be issued unless it is approved and complies with the Model's outline of coverage requirements.

Under Section 3 – Applicability and Scope, of the Model, these standards would apply to group and individual disability income protection policies. We believe it is important to recognize the differences between how group and individual disability income protection policies are chosen, issued and administered.

Individual disability income protection policies are purchased and paid for by the individual insured and the policy is issued directly to the individual that is insured. Individually issued policies will include an *outline of coverage* that would describe the policy the individual chose and purchased. Group disability income policies are generally sponsored by an employer that pays most or all of the premiums for their employees. Employees look to their employers to sponsor the coverage and make the policy decisions based on the types and levels of all benefits

¹ AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and to help create a space where coverage is more affordable and accessible for everyone. Visit www.ahip.org for more information.

the employer offers. A *certificate of coverage* that includes a Summary Plan Description (already required by ERISA) that outlines the disability income benefits the employer has chosen for their employees will be issued to the employer to reflect coverage for all covered employees.

To ensure this distinction between the two markets, we are suggesting the following redlined revision below.

The following minimum standards for benefits are prescribed for the categories of coverage noted in the following subsections. A supplementary or short-term health insurance policy or certificate shall not be delivered or issued for delivery in this state unless it meets the required minimum standards for the specified categories or the commissioner finds that the policies or contracts are approvable as limited benefit health insurance and the outline of coverage complies with the outline or certificate of coverage in Section 8L9H of this regulation.

(Note: We would also suggest that the reference for both certificate of coverage and outline of coverage be reflected in preceding provisions of the Model.)

Recognize Disability Income Protection Policies that Reduce Benefits Based on Age

Section 8 (C) (1) states that disability income protection coverage:

- (1) *Provides that periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62);*

AHIP supports the current language that references age sixty-two (62), which is the earliest time one may choose to receive Social Security retirement benefits. The NAIC Subgroup is asking for specific comments regarding the age a policy could lower the benefit payment amount. Given that this minimum age may change in the future, AHIP would also support revising the specific age of 62 to a more flexible reference such as “*the Social Security retirement age.*”

Align Disability Income Protection Elimination Periods with Product Designs Currently Available in the Market

Section 8 (C) (2) recognizes the need for different elimination periods for different levels of benefits that disability income protection policies offer. We support the current elimination periods outlined in this section.

The NAIC Subgroup is asking for specific comments on the “appropriate” elimination period for policies providing benefits at various lengths of coverage. AHIP would like to note that the

Texas Department of Insurance has suggested that this provision be simplified and modified “to provide that an elimination period cannot exceed 50% of the benefit period.” AHIP would also support this suggested change.

Treat All Disabilities Equally

Section 8 (C) (3) requires a minimum benefit duration of three (3) months² payable after a disability and allows a one month minimum for a disability arising out of pregnancy, childbirth or miscarriage.

The NAIC Subgroup is asking for specific comments on why there is a separate provision for a disability arising out of pregnancy, childbirth or miscarriage. AHIP believes that all disabilities, including pregnancy, childbirth or miscarriage should be treated equally as other disabilities, as mandated by the Pregnancy Discrimination Act of Title VII of the Civil Rights Act. A separate reference for disability arising out of pregnancy, childbirth or miscarriage, is unnecessary. Our suggested redlined edit follows:

- (3) *Has a maximum period of time for which it is payable during disability of at least three (3) months ~~except in the case of a policy covering disability arising out of pregnancy, childbirth or miscarriage in which case the period for the disability may be one month.~~ No reduction in benefits shall be put into effect because of an increase in Social Security or similar benefits during a benefit period*

We appreciate the opportunity to respond to your request for comments. We look forward to the opportunity to work with you in ensuring consumers can make informed decisions regarding their disability income protection coverage options. If you have any questions, or would like to discuss any of these comments, please contact me at (202) 778-3202 or contact AHIP consultant Chris Petersen at (202) 247-0316.

Sincerely,



Susan A. Coronel
Executive Director, Product Policy

² The change from 6 months to 3 months has been adopted by the NAIC Accident and Sickness Insurance Minimum Standards (B) Subgroup during their May 9, 2022 meeting.