

## THE COORDINATION OF BENEFITS ACT

### Act 64 of 1984

AN ACT to provide for the coordination of certain benefits; to prescribe the powers and duties of certain state departments and agencies; and to provide for the promulgation of rules.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984.

**Compiler's note:** For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

#### 550.251 Short title.

Sec. 1. This act shall be known and may be cited as “the coordination of benefits act”.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984.

**Compiler's note:** For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### 550.252 Definitions.

Sec. 2. As used in this act:

(a) “Certificate” means any of the following:

(i) A certificate issued by a health care corporation in connection with a group disability benefit plan under which health or dental care benefits are provided to a group of subscribers.

(ii) A contract issued by a medical care corporation in connection with a group disability benefit plan under which health or dental care benefits are provided to a group of subscribers.

(iii) A contract issued by a hospital service corporation in connection with a group disability benefit plan under which health or dental care benefits are provided to a group of subscribers.

(iv) A health maintenance contract issued by a health maintenance organization in connection with a group disability benefit plan under which health maintenance services are provided, either directly or through contracts with affiliated providers, to a group of subscribers.

(v) A contract issued by a dental care corporation in connection with a group disability benefit plan under which dental care benefits are provided to a group of subscribers.

(b) “Dental care corporation” means a dental care corporation incorporated under Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

(c) “Group disability benefit plan” means a program making health or dental care benefits available to covered persons because of the covered person's membership in or connection with a particular organization or group, which benefits are provided through 1 or more policies or certificates.

(d) “Health care corporation” means a health care corporation incorporated under the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(e) “Health maintenance organization” means a health maintenance organization licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22181 of the Michigan Compiled Laws.

(f) “Hospital service corporation” means a hospital service corporation incorporated under Act No. 109 of the Public Acts of 1939, being sections 550.501 to 550.517 of the Michigan Compiled Laws.

(g) “Insurer” means an insurer as defined in section 106 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.106 of the Michigan Compiled Laws.

(h) “Medical care corporation” means a medical care corporation incorporated under Act No. 108 of the Public Acts of 1939, being sections 550.301 to 550.316 of the Michigan Compiled Laws.

(i) “Policy” means a group disability insurance policy issued by an insurer in connection with a group disability benefit plan which provides for hospital, medical, surgical, dental, or sick care benefits.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**550.253 Policy or certificate containing coordination of benefits provision; payment of benefits; reduction or limitation of benefits prohibited; health maintenance organization.**

Sec. 3. (1) Any policy or certificate delivered or issued for delivery in this state in connection with a group disability benefit plan may contain provisions coordinating the benefits or services that would otherwise be provided to a covered person. Any such policy or certificate that contains a coordination of benefits provision shall provide that benefits will be payable as follows when coordinating with another policy or certificate that also has a coordination of benefits provision:

(a) The benefits of a policy or certificate that covers the person on whose expenses the claim is based other than as a dependent shall be determined before the benefits of a policy or certificate that covers the person as a dependent. However, if the person is a medicare beneficiary and as a result of the provisions of title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to 1395w-2, 1395w-4 to 1395yy, and 1395bbb to 1395ccc, medicare is secondary to the policy or certificate covering the person as a dependent and primary to the policy or certificate covering the person as other than a dependent, then the order of benefits is reversed and the policy or certificate covering the person as other than a dependent is secondary and the policy or certificate covering the person as a dependent is primary.

(b) Except as otherwise provided in subdivision (c), if 2 policies or certificates cover a person on whose expenses the claim is based as a dependent, the benefits of the policy or certificate of the person whose birthday anniversary occurs earlier in the calendar year shall be determined before the benefits of the policy or certificate of the person whose birthday anniversary occurs later in the calendar year. If the birthday anniversaries are identical, the benefits of a policy or certificate that has covered the person on whose expenses the claim is based for the longer period of time shall be determined before the benefits of a policy or certificate that has covered the person for the shorter period of time. However, if either policy or certificate is lawfully issued in another state and does not have the coordination of benefits procedure regarding dependents based on birthday anniversaries as provided in this subdivision, and as a result each policy or certificate determines its benefits after the other, the coordination of benefits procedure set forth in the policy or certificate that does not have the coordination of benefits procedure based on birthday anniversaries shall determine the order of benefits.

(c) For a person for whom claim is made as a dependent minor child, benefits shall be determined according to the following:

(i) Except as provided in subparagraph (iii), if the parents of the minor child are legally separated or divorced, and the parent with custody of the minor child has not remarried, the benefits of a policy or certificate that covers the minor child as a dependent of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the noncustodial parent.

(ii) Except as provided in subparagraph (iii), if the parents of the minor child are divorced, and the parent with custody of the child has remarried, the benefits of a policy or certificate that covers the minor child as a dependent of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the spouse of the custodial parent, and the benefits of a policy or certificate that covers the minor child as a dependent of the spouse of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the noncustodial parent.

(iii) If the parents of the minor child are divorced, and the decree of divorce places financial responsibility for the medical, dental, or other health care expenses of the minor child upon either the custodial or the noncustodial parent, the benefits of a policy or certificate that covers the minor child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other policy or certificate that covers the minor child as a dependent.

(d) If subdivisions (a), (b), and (c) do not establish an order of benefit determination, the benefits of a policy or certificate in connection with a group disability benefit plan that has covered the person on whose expenses the claim is based for the longer period of time shall be determined before the benefits of a policy or certificate that has covered the person for the shorter period of time, subject to the following:

(i) The benefits of a policy or certificate covering the person on whose expenses the claim is based as a laid-off or retired employee or as a dependent of a laid-off or retired employee shall be determined after the benefits of any other policy or certificate covering the person other than as a laid-off or retired employee or a dependent of a laid-off or retired employee.

(ii) Subparagraph (i) does not apply if either policy or certificate is lawfully issued in another state and does not have a provision regarding laid-off or retired employees and, as a result, each policy or certificate determines its benefits after the other.

(e) If a person whose coverage is provided under a right of continuation pursuant to federal or state law is

also covered under another policy or certificate, the policy or certificate covering the person as an employee, member, subscriber, enrollee, or retiree, or as that person's dependent, is primary and the continuation coverage is secondary.

(2) A policy or certificate that contains a coordination of benefits provision shall provide that benefits under the policy or certificate shall not be reduced or otherwise limited because of the existence of another nongroup contract that is issued as a hospital indemnity, surgical indemnity, specified disease, or other policy of disability insurance as defined in section 3400 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3400 of the Michigan Compiled Laws.

(3) A health maintenance organization is not required to pay claims or coordinate benefits for services that are not provided or authorized by the health maintenance organization and that are not benefits under the health maintenance contract.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984;—Am. 1996, Act 325, Imd. Eff. June 26, 1996.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **550.254 Rules.**

Sec. 4. The commissioner of insurance may promulgate rules to implement and supervise this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibilities of the insurance bureau and the commissioner of insurance to the commissioner of the office of financial and insurance services and the office of financial and insurance services, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **550.255 Conditional effective date.**

Sec. 5. This act shall not take effect unless all of the following bills of the 82nd Legislature are enacted into law:

- (a) Senate Bill No. 562.
- (b) Senate Bill No. 563.
- (c) Senate Bill No. 564.
- (d) Senate Bill No. 565.
- (e) Senate Bill No. 566.
- (f) Senate Bill No. 567.

**History:** 1984, Act 64, Imd. Eff. Apr. 18, 1984.

**Compiler's note:** The following Senate Bills, referred to in Sec. 550.255, were enacted into law as follows: Senate Bill No. 562 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 65. Senate Bill No. 563 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 66. Senate Bill No. 564 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 67. Senate Bill No. 565 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 68. Senate Bill No. 566 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 69. Senate Bill No. 567 was filed with the Secretary of State on April 18, 1984, and became P.A. 1984, No. 70.

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