

**ANALYSIS OF PROPOSED LEGISLATIVE RULES**

**Agency:** Insurance Commissioner  
**Subject:** Individual Accident and Sickness Insurance Minimum Standards, 114 CSR 12  
**Staff Counsel:** Rita Pauley  
**Date:** September 23, 1998

OFFICE OF THE  
SECRETARY OF STATE

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FILED

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**PERTINENT DATES**

Filed for public comment: June 3, 1998  
Public comment period ended: July 6, 1998  
Filed following public comment period: July 30, 1998  
Filed LRMRC: July 30, 1998  
Filed as emergency: N/A

**Fiscal Impact:** None

**ABSTRACT**

The proposed modifications to this rule are to implement the provisions of West Virginia Code §33-28-1 et seq. which was amended in 1997 to bring our statute into compliance with the Health Insurance Portability and Accountability Act of 1996, the Kennedy-Kassebaum Bill. The modifications to the rule provide that an insurer offering individual accident and sickness insurance coverage may not impose any preexisting condition exclusion. The rule also provides that an insurer providing in-patient benefits for childbirth must meet all of the requirements of West Virginia Code §33-15-4e for both the mother and child.

The proposed rule would extend the applicability of the current rule to fraternal benefit societies, health care corporations and health maintenance organizations who provide individual accident and sickness insurance policies.

The proposed rule amends a current legislative rule. Most of the amendments clean up the format and style of the rule. The substantive changes are as follows:

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule. This section has been modified to clarify that the

rule applies to individual accident and sickness insurance policies and subscriber contracts offered by health care corporations, fraternal benefit societies and health maintenance organizations on and after the effective date of the rule. The rule does not apply to individual policies issued under a conversion privilege which includes provisions that are inconsistent with the rule.

Section 2 contains the definitions.

Section 3 sets forth the definitions which must be contained in the policy.

Section 4 enumerates the provisions which are prohibited in policies. This section has been modified to prohibit the imposition of any preexisting condition exclusion in individual sickness and accident policies.

Section 5 provides the minimum standards for benefits under individual sickness and accident policies. This section has been modified to require insurers to meet the requirement of West Virginia Code §33-15-4e. This Code provision requires insurers who provide inpatient benefits for childbirth to allow a minimum hospital stay of 48 hours after a normal vaginal delivery and 96 hours after a cesarean section. An insurer is to provide benefits in accordance with the guidelines established by the American college of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

Section 6 contains the required disclosure provisions. This section has been modified to prohibit the imposition of any preexisting condition exclusion in individual sickness and accident policies. The outline of coverage information has been deleted from Section 6; it has been converted into forms which are now found in Appendix A through K.

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#### AUTHORITY

Statutory authority: W.Va. Code, §33-2-10, which provides, in part, as follows:

The commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the

interests of policyholders and the public of this state.

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**ANALYSIS**

**I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?**

No.

**II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?**

Yes.

**III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?**

No.

**IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?**

Yes.

**V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?**

Yes.

**VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?**

No.

**VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?**

Yes.

**VIII. OTHER.**

Counsel has suggested technical modifications.



**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

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*Senator Mike Ross, Co-Chairman*  
*Delegate Mark Hunt, Co-Chairman*  
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December 13, 1998

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FILED  
DEC 16 9 29 AM '98  
OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Donna Quesenberry  
Insurance Commission  
Capitol Complex  
P.O. Box 50540

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Individual Accident and Sickness Insurance Minimum Standards, 114CSR12**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule  
(a) as originally filed  

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(b) as modified by the agency  

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2. Authorize the agency to promulgate part of the Legislative rule;  
a statement of reasons for such recommendation is attached.  

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3. Authorize the agency to promulgate the Legislative rule with  
certain amendments; amendments and a statement of reasons  
for such recommendation is attached.  

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4. Authorize the agency to promulgate the Legislative rule as  
modified with certain amendments; amendments and a  
statement of reasons for such recommendation is attached.  

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