

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY West Virginia Code §§ 33-2-10, 33-15-15 and 33-16C-9

AMENDMENT TO AN EXISTING RULE: YES NO

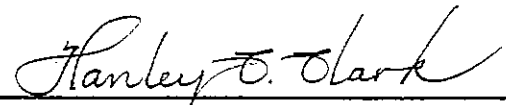
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 33

TITLE OF RULE BEING PROPOSED: Individual and Employer Group
Minimum Benefits Accident and Sickness Insurance Policies

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Hanley C. Clark
Insurance Commissioner

5,20



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

September 18, 1992

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, WV 25305

Dear Ms. Cooper:

Enclosed please find for filing: the "Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee," "Description of Rule," "Legislative Rule-Making Review Committee Questionnaire" and a copy of the agency-approved rule entitled "Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies" for Series 33, Title 114.

Very truly yours,

Linda Gay
Linda Gay
Associate Counsel

LG/fs
Enclosures

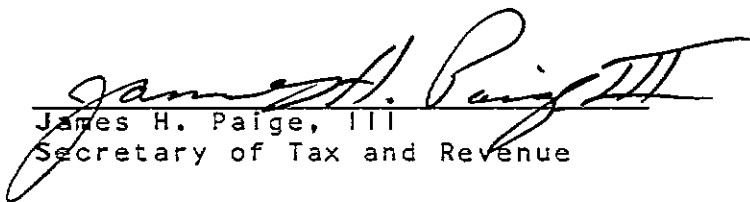
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OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

CONSENT TO PROPOSAL OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the proposal of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 33, relating to Individual and Employer Group Minimum Benefit Accident and Sickness Insurance Policies.

Signed this 30 day of July, 1992.


James H. Paige, III
Secretary of Tax and Revenue

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

DATE: SEPTEMBER 18, 1992

LEGISLATIVE RULE TITLE: Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies (Title 114, Series 33)

DESCRIPTION OF RULE

This proposed rule implements the provisions of West Virginia Code § 33-15-15 and Chapter 33, Article 16C, which direct the Insurance Commissioner to design minimum benefits accident and sickness insurance policies for individuals and employer groups. This rule defines the benefit structures of these policies. The benefit structure for the individual minimum benefits policy is the same as the benefit structure for the employer group minimum benefits policy. The rule also establishes procedures relating to minimum benefits policy rates and forms.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies (Title 114, Series 33)

Type of Rule: XX Legislative _____ Interpretive _____ Procedural

Agency: Insurance Commissioner Address: Post Office Box 50540
2019 Washington Street, East,
Charleston, WV 25305-0540

1.	Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
		Increase	Decrease	Current	Next	Thereafter
	Estimated Total Cost	NONE				

Personal Services

Current Expense

Repairs & Alterations NONE

Equipment

Other

2. Explanation of above estimates:

The proposed rule will have no fiscal impact on state, local, or federal government.

3. Objectives of these rules:

The objectives of the rule are to establish minimum benefits for basic accident and sickness insurance policies for individuals and employer groups. The rule defines these benefits and establishes procedures relating to minimum benefits policy rates and forms.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

NONE

C. Economic Impact on Citizens/Public at Large.

The structure of the minimum benefits accident and sickness policies was designed to provide catastrophic coverage at low premium rates. The desired outcome is insurance protection for a maximum number of people and eventually, reduction of the cost-shift to other insured patients.

Date: Aug. 7, 1992

Signature of Agency Head or Authorized Representative

Hanley C. Clark

Hanley C. Clark
Insurance Commissioner

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

DATE: SEPTEMBER 18, 1992

LEGISLATIVE RULE TITLE: Individual and Employer Group Minimum
Benefits Accident and Sickness Insurance
Policies (Title 114, Series 33)

1. Authorizing statute(s) citation West Virginia Code
§§ 33-2-10, 33-15-15 and 33-16C-9

2. a. Date filed in State Register with Notice of Hearing:
August 10, 1992

- b. What other notice, including advertising, did you give of
the hearing?
None

- c. Date of hearing(s): The public comment period ended
on September 11, 1992 at 4:30 p.m.

- d. Attach list of persons who appeared at hearing, comments
received, amendments, reasons for amendments.
Attached _____ No comments received XX -- But
see Attachment re: rule amendment
made by the Insurance Commissioner

- e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing: (be
exact)
September 18, 1992

- f. Name and phone number of agency person to contact for
additional information:
Linda Gay
Associate Counsel
(304) 558-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ Not applicable _____

b. Date of hearing: Not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ Not applicable _____

d. Attach findings and determinations and reasons:

Attached Not applicable

Attachment to Question 2(d):

No comments were received regarding this proposed rule during the public comment period which ended September 11, 1992. However, the Insurance Commissioner on his own initiative has made one cleanup amendment in the proposed rule on individual and employer group minimum benefits accident and sickness insurance policies. In this agency-approved rule, the Commissioner has added a new Subsection 3.2 that states: "A minimum benefits accident and sickness insurance policy may contain provisions specifying that coverage under the policy is secondary to coverage provided under any other applicable health insurance policy or plan." The remaining subsections of Section 3 were accordingly renumbered, following insertion of new Subsection 3.2.

This cleanup amendment was made to harmonize this rule with the Insurance Commissioner's proposed amended rule entitled "Group Coordination of Benefits" (Title 114, Series 28), in which existing Subsection 2.1.9 has had added to it this language: "Any employer group minimum benefits plan issued in accordance with West Virginia Code Chapter 33, Article 16C is a Secondary Plan if other applicable health insurance coverage exists. If a person is covered by more than one employer group minimum benefits plan, the order of benefits determination rules of this regulation decide the order in which their benefits are determined in relation to each other."

In this cleanup amendment to the agency-approved rule on minimum benefits policies, the Insurance Commissioner has used the word "may" rather than "shall" in new Subsection 3.2 to correspond to the permissive language in his existing and amended proposed rules on group coordination of benefits. Those rules provide in relevant part: "1.2. Purpose. -- The purpose of this regulation is to: 1.2.1. Permit, but not require, [group accident and sickness insurance] plans to include a coordination of benefits (COB) provision;" (emphasis added).

114CSR33

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 33
INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS ACCIDENT AND
SICKNESS INSURANCE POLICIES

Section

- 114-33-1. General
- 114-33-2. Benefit Structures of Individual and Employer Group Policies
- 114-33-3. Policy Rates and Forms
- 114-33-4. Separability
- Appendix A. Individual Certification of Eligibility for Minimum Benefits Policy
- Appendix B. Employee Certification of Eligibility for Minimum Benefits Policy
- Appendix C. Employer Certification of Eligibility for Minimum Benefits Policy

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 33
INDIVIDUAL AND EMPLOYER GROUP MINIMUM BENEFITS ACCIDENT AND
SICKNESS INSURANCE POLICIES

§ 114-33-1. General

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-15-15 and Chapter 33, Article 16C. Code § 33-15-15 directs the Insurance Commissioner to establish minimum benefits for accident and sickness insurance policies for individuals. Chapter 33, Article 16C directs the Commissioner to establish minimum benefits accident and sickness insurance policies for employer groups. This rule defines the benefit structures of these policies and establishes procedures relating to minimum benefit policy rates and forms.

1.2. Authority. -- West Virginia Code §§ 33-2-10, 33-15-15 and 33-16C-9

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-33-2. Benefit Structures of Individual and Employer Group Policies

2.1. The benefit structure for an individual minimum benefits policy shall be the same as the benefit structure for an employer group minimum benefits policy. The benefit structure shall be as follows:

2.1.a. Inpatient hospitalization -- thirty (30) days per year, with a maximum of one (1) medical visit per inpatient day.

2.1.b. Outpatient services -- include surgery, anesthesia, preadmission testing, radiation, and chemotherapy (does not include routine diagnostic testing).

2.1.c. Maternity coverage -- includes prenatal care and delivery.

2.1.d. Newborn infant care -- covers four (4) office visits during the first twelve (12) months of life.

2.1.e. Emergency care -- covers a condition if it falls within the following definition: "A nonoccupational accidental injury or illness whose symptoms are of sufficient severity that, if medical attention is not provided within 72 hours, could reasonably be expected to result in an immediate or

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Title 114, Series 33

delayed threat to life, a prolonged hospitalization or an organ or body part not returning to full, normal function; provided, that an illness treated in an emergency room will be covered only if it results in the patient's subsequent admission to the hospital."

2.2. Any additional benefits an insurer wishes to add to a minimum benefits policy must first be approved by the Insurance Commissioner.

§ 114-33-3. Policy Rates and Forms

3.1. Any company licensed to write accident and sickness insurance business in the State of West Virginia may offer a minimum benefits accident and sickness policy; provided, however, that all rates and forms for any such policy shall be submitted to the Insurance Commissioner for approval.

3.2. A minimum benefits accident and sickness insurance policy may contain provisions specifying that coverage under the policy is secondary to coverage provided under any other applicable health insurance policy or plan.

~~3.2.~~ 3.3. Upon offering coverage under a minimum benefits policy, the insurer shall provide the applicant with a written disclosure statement containing at least the following:

~~3.2.a.~~ 3.3.a. An explanation of benefits otherwise mandated by state law but not covered by the basic policy;

~~3.2.b.~~ 3.3.b. An explanation of cost control features of the minimum benefits policy, along with all appropriate mailing addresses and telephone numbers to be utilized by insureds or their family members in seeking information or authorization for treatment; and

~~3.2.c.~~ 3.3.c. An explanation that the insurance policy is a minimum benefits policy; and

~~3.2.d.~~ 3.3.d. An explanation of any and all deductibles and/or copayments for which the insured will or may be responsible.

~~3.3.~~ 3.4. This disclosure statement shall be presented in a clear and understandable form and format, and shall be separate from the basic policy or certificate or evidence of coverage provided to an eligible applicant or family member.

~~3.4.~~ 3.5. Before any insurer issues a minimum benefits policy to an individual, it shall obtain from such individual, on the form prescribed in Appendix A:

Insurance Commission
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~~3.4.a.~~ 3.5.a. Certification from the individual that he or she has been without health insurance coverage for at least one (1) year prior to application for a minimum benefits policy; and

~~3.4.b.~~ 3.5.b. A signed written statement acknowledging that he or she understands the limited nature of the coverage provided under the minimum benefits policy.

~~3.5.~~ 3.6. Before any insurer issues a minimum benefits policy to an employer group, it shall obtain from each eligible employee to be covered under the minimum benefits policy, on the form prescribed in Appendix B:

~~3.5.a.~~ 3.6.a. Certification from the employee that the employer group has not provided him or her with health insurance for the past twelve (12) months; and

~~3.5.b.~~ 3.6.b. A signed written statement acknowledging that the employee understands the limited nature of the coverage provided under the minimum benefits policy.

~~3.6.~~ 3.7. Before any insurer issues a minimum benefits policy to an employer group, it shall obtain from the employer on the form prescribed in Appendix C:

~~3.6.a.~~ 3.7.a. Certification from the employer that it has not provided health insurance benefits for its employees for the twelve (12) months immediately preceding application for a minimum benefits employer group policy.

~~3.6.b.~~ 3.7.b. A signed written statement acknowledging that the employer understands the limited nature of the coverage provided under the minimum benefits policy.

§ 114-33-4. Separability

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions to other persons or circumstances shall not be affected thereby.

APPENDIX A

INDIVIDUAL CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY

I hereby certify that I have not had health insurance coverage for the past one (1) year.

I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on my behalf, and on my dependents' behalf, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceedings.

I understand and acknowledge that the policy for which I am applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.

[Signature of Individual Applying
for Insurance]

Date

APPENDIX B

EMPLOYEE CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY

I hereby certify that [current employer] has not offered health insurance to me within the past twelve (12) months.

I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on my behalf, and on my dependents' behalf, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceedings.

I understand and acknowledge that the policy for which my employer is applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.

[Signature of Employee]

Date

APPENDIX C

EMPLOYER CERTIFICATION OF ELIGIBILITY
FOR MINIMUM BENEFITS POLICY

I, _____, hold the position of _____ for _____ with its principal office at _____, and having express authority to provide the information contained herein, hereby state and certify that [employer] has not offered health insurance coverage to all of its employees for the past twelve (12) months.

I acknowledge that if the information contained in the preceding paragraph is determined to be untrue, remedies may be pursued to recover monies paid for claims on behalf of the employees of (Group Name) and their dependents, which remedies include but are not limited to cancellation, rescission of coverage, or civil and/or criminal proceeding.

I understand and acknowledge that the policy for which [employer] in applying is a minimum benefits policy and does not contain certain benefits otherwise mandated by state law.

[Signature of Employer's Representative]

Title

Date