

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

FILED
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2010 JAN 26 AM 10:34

OFFICE OF THE SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Board of Directors of the West Virginia Health Insurance Plan TITLE NUMBER: 113

CITE AUTHORITY W.Va. Code §§33-2-10 and 33-48-8 (d)(1)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

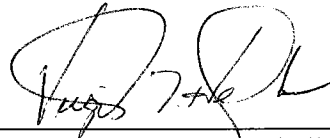
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Pre-existing Conditions Exclusion

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE
RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND
COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED
MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Virgil T. Helton
Cabinet Secretary
West Virginia Department of Revenue

**TITLE 113
LEGISLATIVE RULE
BOARD OF DIRECTORS OF THE
WEST VIRGINIA HEALTH INSURANCE PLAN**

**SERIES 2
PRE-EXISTING CONDITIONS EXCLUSION**

Section

- 113-2-1. General.
- 113-2-2. Definitions.
- 113-2-3. Persons not Subject to the Pre-existing Condition Exclusion Period.

FILED

**TITLE 113
LEGISLATIVE RULE
BOARD OF DIRECTORS OF THE
WEST VIRGINIA HEALTH INSURANCE PLAN**

2010 JAN 26 AM 10: 34

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**SERIES 2
PRE-EXISTING CONDITIONS EXCLUSION**

§113-2-1. General.

1.1. Scope. -- The purpose of this rule is to provide additional classes of individuals to which the waiting period for pre-existing condition exclusions does not apply.

1.2. Authority. -- W.Va. Code §§33-2-10 and 33-48-8(d)(1).

1.3. Filing Date. --

1.4. Effective Date. --

§113-2-2. Definitions.

2.1. "Creditable coverage," "Plan" and "significant break in coverage" have the same meanings assigned to them in W. Va. Code §33-48-1(d).

2.2. "Pre-existing condition exclusion" means the exclusion of charges or expenses incurred during the first six months following the effective date of coverage as to any condition for which medical advice, diagnosis, care or treatment was recommended or received as to such condition during the six-month period immediately preceding the effective date of coverage.

§113-2-3. Persons not Subject to the Pre-existing Condition Exclusion Period.

3.1. In addition to federally defined eligible individuals and those persons to whom W. Va. Code §33-48-8(d)(2) applies, the Board may approve the waiver of the pre-existing exclusion for one or more of the following classes of enrollees if the Board finds, on the basis of actuarial review or otherwise, that the addition of such class or classes will not have an undue adverse effect on the overall operation of the Plan.

a. A person, without a significant break in coverage, who had prior creditable coverage of eighteen months or more, regardless of whether that coverage was terminated voluntarily or involuntarily.

b. A person who was previously enrolled in Medicaid, Medicare, the State Children's Health Insurance Program or any other public health insurance program that does not impose a waiting period before treatment for a pre-existing condition and who is enrolling in the

**Board of Directors of the
WV Health Insurance Plan
Title 113, Series 2
Legislative Rule**

Plan without a significant break in coverage: *Provided*, That with respect to any person who was enrolled in such a program for less than six months prior to enrollment in the Plan, the Board may decide that any such person will be deemed to have satisfied a portion of the six-month waiting period imposed by W. Va. Code §33-48-8(d)(1) equal to the previous enrollment period of such program;

c. A person who was previously covered under another state's high-risk plan: *Provided*, That with respect to any such person who had not satisfied the other state's high-risk plan's pre-existing condition waiting period, if any, the Board may decide that any such person will be deemed to have satisfied a portion of the six-month waiting period imposed by W. Va. Code §33-48-8(d)(1) equal to the waiting period such person had satisfied under such previous coverage. or

d. A person who was previously covered under an individual health insurance policy and who is enrolling in the Plan because premiums for the previous coverage were in excess of those charged under the Plan for similar coverage: *Provided*, That with respect to any such person who had not satisfied the prior health plan's pre-existing condition waiting period, if any, the Board may decide that any such person will be deemed to have satisfied a portion of the six-month waiting period imposed by W. Va. Code §33-48-8(d)(1) equal to the waiting period such person had satisfied under such previous coverage.