

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

Form #6

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE
AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.**

Health Insurance Plan

AGENCY: Insurance Commissioner TITLE NUMBER: 113

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

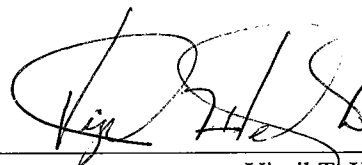
TITLE OF RULE BEING PROPOSED: Pre-existing Conditions Exclusion

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 407

SECTION 64-7-3, PASSED ON March 13, 2010

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 14, 2010



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.

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

**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. -- April 14, 2010.

1.4. Effective Date. -- April 14, 2010.

§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.

3.1.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.

3.1.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

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;

3.1.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

3.1.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.