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HEALTH INSURANCE PORTABILITY

IT HAS BEEN BROUGHT TO MY ATTENTION THAT A CLARIFICATION IS NEEDED REGARDING PROPER COMPLIANCE WITH AND GUIDANCE UNDER LOUISIANA REVISED STATUTES (La.R.S.) TITLE 22, SECTION 215.16, WHICH GOVERNS HEALTH INSURANCE PORTABILITY.

AS ORIGINALLY ENACTED IN 1993, La.R.S. 22:215.16 REQUIRED AN EXEMPTION OF NEW WAITING PERIODS FOR PREEXISTING MEDICAL CONDITIONS UNDER A SUBSEQUENT POLICY AFTER TERMINATION OF A PREVIOUS POLICY.

HOWEVER, ACT 678 OF THE 1995 REGULAR SESSION OF THE LOUISIANA LEGISLATURE, EFFECTIVE AUGUST 15, 1995, AMENDED La.R.S. 22:215.16 TO EXEMPT ANY AND ALL OTHER LIMITATIONS AND EXCLUSION OF PREEXISTING MEDICAL CONDITIONS FROM POLICIES AS WELL.

R.S. 22:215.16 READS AS FOLLOWS:

"A. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "GROUP POLICY" MEANS A GROUP ACCIDENT AND HEALTH INSURANCE POLICY OR GROUP CERTIFICATE DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE BY AN INSURER, NONPROFIT HOSPITAL OR MEDICAL SERVICE ORGANIZATION, A DOMESTIC NONPROFIT MUTUAL ASSOCIATION WHICH IS ENGAGED IN THE FURNISHING OF HOSPITAL SERVICES, MEDICAL OR SURGICAL BENEFITS, A HEALTH MAINTENANCE ORGANIZATION, OR A SELF-INSURANCE PLAN.

(2) "PORTABILITY" SHALL MEAN THE EXEMPTION OF THE STANDARD PREEXISTING CONDITION UNDER A SUBSEQUENT HEALTH INSURANCE POLICY FOLLOWING THE TERMINATION OF A POLICY OR PLAN FROM A PREVIOUS HEALTH INSURANCE POLICY OR PLAN.

B. FOR PURPOSES OF THIS SECTION, THE COVERAGE FOR AN INSURED WHO WAS PREVIOUSLY COVERED UNDER ANOTHER QUALIFIED SELF-FUNDED PLAN PROVIDED FOR BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) OF 1974, 29 U.S.C. 1001 et seq., OR PUBLICLY FUNDED PROGRAM, SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

C. THE PROVISIONS OF THIS SECTION SHALL NOT PRECLUDE THE STANDARD TWELVE-MONTH PREEXISTING CONDITION EXCLUSION WHEN THE COVERED PERSON INITIALLY BECOMES COVERED UNDER A HEALTH AND ACCIDENT INSURANCE POLICY OR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER AGREEMENT OR WHEN A COVERED PERSON LACKS CONTINUOUS HEALTH INSURANCE COVERAGE FOR A PERIOD IN EXCESS OF SIXTY DAYS. IN DETERMINING WHETHER A PREEXISTING CONDITION EXCLUSION APPLIES TO A COVERED PERSON, ANY HEALTH AND ACCIDENT INSURANCE POLICY OR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER AGREEMENT COVERED BY THIS SECTION SHALL CREDIT THE TIME THE PERSON WAS COVERED UNDER A PREVIOUS POLICY COVERED BY THIS SECTION, IF THE PREVIOUS COVERAGE WAS CONTINUOUS TO A DATE NOT MORE THAN SIXTY DAYS PRIOR TO THE EFFECTIVE DATE OF THE NEW COVERAGE, EXCLUSIVE OF ANY APPLICABLE WAITING PERIOD UNDER SUCH POLICY.

D. (1) ANY HEALTH AND ACCIDENT INSURANCE POLICY OR HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER AGREEMENT COVERED BY THIS SECTION SHALL BE PORTABLE WITHOUT PREEXISTING CONDITIONS OR LIMITATIONS EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AND SHALL INCLUDE A CREDIT FOR LIFETIME BENEFITS PAID BY THE PRIOR INSURER AGAINST THE LATTER HEALTH INSURANCE COVERAGE, IF THE COVERED PERSON HAD PREVIOUS COVERAGE WHICH WAS CONTINUOUS TO A DATE NOT MORE THAN SIXTY DAYS PRIOR TO THE EFFECTIVE DATE OF THE LATTER COVERAGE.

(2) THIS SECTION SHALL ALSO APPLY TO A PERSON WHO IS TERMINATED FROM A GROUP OR INDIVIDUAL HEALTH INSURANCE POLICY OF A HEALTH MAINTENANCE ORGANIZATION SUBSCRIBER AGREEMENT.

(3) ALL REFERENCES IN THIS SECTION TO PREEXISTING CONDITION LIMITATIONS OR EXCLUSIONS SHALL APPLY TO AND INCLUDE ALL EXCEPTED POLICIES AND COVERAGES SPECIFIED IN R.S. 22:215.12."

THEREFORE, I HEREBY ORDER AND DIRECT THAT:

HEALTH INSURERS ISSUING POLICIES SUBJECT TO La.R.S. 22:215.16 SHALL NOT IMPOSE NEW WAITING PERIODS, LIMITATIONS OR EXCLUSIONS ON COVERED PERSONS' PREEXISTING MEDICAL CONDITIONS.

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