



Reprinted
April 9, 1999

ENGROSSED HOUSE BILL No. 1372

DIGEST OF HB 1372 (Updated April 8, 1999 3:45 pm - DI 88)

Citations Affected: IC 27-8.

Synopsis: Group health insurance. Allows preexisting condition exclusions and limitations to be part of certain group policies of accident and sickness and insurance for a fixed time period with respect to a disability that existed as of the effective date of the policy.

Effective: July 1, 1999.

Bischoff, Dillon, Fry
(SENATE SPONSORS — NUGENT, LEWIS)

January 12, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 24, 1999, reported — Do Pass.

March 3, 1999, read second time, amended, ordered engrossed.

March 4, 1999, engrossed.

March 8, 1999, read third time, passed. Yeas 51, nays 45.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Health and Provider Services.

April 5, 1999, amended, reported favorably — Do Pass.

April 8, 1999, read second time, amended, ordered engrossed.

EH 1372—LS 7647/DI 97+



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April 9, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1372

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-8-5-19 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this
3 chapter, "late enrollee" has the meaning set forth in 26 U.S.C.
4 9801(b)(3).
5 (b) A policy of group accident and sickness insurance may not be
6 issued to a group that has a legal situs in Indiana unless it contains in
7 substance:
8 (1) the provisions described in subsection (c); or
9 (2) provisions that, in the opinion of the commissioner, are:
10 (A) more favorable to the persons insured; or
11 (B) at least as favorable to the persons insured and more
12 favorable to the policyholder;
13 than the provisions set forth in subsection (c).
14 (c) The provisions referred to in subsection (b)(1) are as follows:
15 (1) A provision that the policyholder is entitled to a grace period
16 of thirty-one (31) days for the payment of any premium due

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1 except the first, during which grace period the policy will
2 continue in force, unless the policyholder has given the insurer
3 written notice of discontinuance in advance of the date of
4 discontinuance and in accordance with the terms of the policy.
5 The policy may provide that the policyholder is liable to the
6 insurer for the payment of a pro rata premium for the time the
7 policy was in force during the grace period. A provision under
8 this subdivision may provide that the insurer is not obligated to
9 pay claims incurred during the grace period until the premium
10 due is received.

11 (2) A provision that the validity of the policy may not be
12 contested, except for nonpayment of premiums, after the policy
13 has been in force for two (2) years after its date of issue, and that
14 no statement made by a person covered under the policy relating
15 to the person's insurability may be used in contesting the validity
16 of the insurance with respect to which the statement was made,
17 unless:

18 (A) the insurance has not been in force for a period of two (2)
19 years or longer during the person's lifetime; or

20 (B) the statement is contained in a written instrument signed
21 by the insured person.

22 However, a provision under this subdivision may not preclude the
23 assertion at any time of defenses based upon a person's
24 ineligibility for coverage under the policy or based upon other
25 provisions in the policy.

26 (3) A provision that a copy of the application, if there is one, of
27 the policyholder must be attached to the policy when issued, that
28 all statements made by the policyholder or by the persons insured
29 are to be deemed representations and not warranties, and that no
30 statement made by any person insured may be used in any contest
31 unless a copy of the instrument containing the statement is or has
32 been furnished to the insured person or, in the event of death or
33 incapacity of the insured person, to the insured person's
34 beneficiary or personal representative.

35 (4) A provision setting forth the conditions, if any, under which
36 the insurer reserves the right to require a person eligible for
37 insurance to furnish evidence of individual insurability
38 satisfactory to the insurer as a condition to part or all of the
39 person's coverage.

40 (5) A provision specifying any additional exclusions or limitations
41 applicable under the policy with respect to a disease or physical
42 condition of a person that existed before the effective date of the

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1 person's coverage under the policy and that is not otherwise
 2 excluded from the person's coverage by name or specific
 3 description effective on the date of the person's loss. An exclusion
 4 or limitation that must be specified in a provision under this
 5 subdivision:

6 (A) may apply only to a disease or physical condition for
 7 which medical advice, diagnosis, care, or treatment was
 8 received by the person, or recommended to the person, during
 9 the six (6) months before the enrollment date of the person's
 10 coverage; and

11 (B) may not apply to a loss incurred or disability beginning
 12 after the earlier of:

13 (i) the end of a continuous period of twelve (12) months
 14 beginning on or after the enrollment date of the person's
 15 coverage; or

16 (ii) the end of a continuous period of eighteen (18) months
 17 beginning on the enrollment date of the person's coverage if
 18 the person is a late enrollee.

19 **(6) A provision specifying any additional exclusions or**
 20 **limitations applicable under the policy with respect to a**
 21 **disease or physical condition of a person that existed before**
 22 **the effective date of the person's coverage under the policy.**
 23 **An exclusion or limitation that must be specified in a**
 24 **provision under this subdivision:**

25 (A) may apply only to a disease or physical condition for
 26 which medical advice or treatment was received by the
 27 person during a period of three hundred sixty-five (365)
 28 days before the effective date of the person's coverage; and

29 (B) may not apply to a loss incurred or disability beginning
 30 after the earlier of the following:

31 (i) The end of a continuous period of three hundred
 32 sixty-five (365) days, beginning on or after the effective
 33 date of the person's coverage, during which the person
 34 did not receive medical advice or treatment in
 35 connection with the disease or physical condition.

36 (ii) The end of the two (2) year period beginning on the
 37 effective date of the person's coverage.

38 **This subdivision applies only to group policies of accident and**
 39 **sickness insurance described in section 2.5(a)(1) through**
 40 **2.5(a)(8) of this chapter.**

41 ~~(6)~~ (7) If premiums or benefits under the policy vary according to
 42 a person's age, a provision specifying an equitable adjustment of:

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- 1 (A) premiums;
 2 (B) benefits; or
 3 (C) both premiums and benefits;
 4 to be made if the age of a covered person has been misstated. A
 5 provision under this subdivision must contain a clear statement of
 6 the method of adjustment to be used.
- 7 ~~(7)~~ (8) A provision that the insurer will issue to the policyholder,
 8 for delivery to each person insured, a certificate setting forth a
 9 statement that:
- 10 (A) explains the insurance protection to which the person
 11 insured is entitled;
 12 (B) indicates to whom the insurance benefits are payable; and
 13 (C) explains any family member's or dependent's coverage
 14 under the policy.
- 15 ~~(8)~~ (9) A provision stating that written notice of a claim must be
 16 given to the insurer within twenty (20) days after the occurrence
 17 or commencement of any loss covered by the policy, but that a
 18 failure to give notice within the twenty (20) day period does not
 19 invalidate or reduce any claim if it can be shown that it was not
 20 reasonably possible to give notice within that period and that
 21 notice was given as soon as was reasonably possible.
- 22 ~~(9)~~ (10) A provision stating that:
- 23 (A) the insurer will furnish to the person making a claim, or to
 24 the policyholder for delivery to the person making a claim,
 25 forms usually furnished by the insurer for filing proof of loss;
 26 and
 27 (B) if the forms are not furnished within fifteen (15) days after
 28 the insurer received notice of a claim, the person making the
 29 claim will be deemed to have complied with the requirements
 30 of the policy as to proof of loss upon submitting, within the
 31 time fixed in the policy for filing proof of loss, written proof
 32 covering the occurrence, character, and extent of the loss for
 33 which the claim is made.
- 34 ~~(10)~~ (11) A provision stating that:
- 35 (A) in the case of a claim for loss of time for disability, written
 36 proof of the loss must be furnished to the insurer within ninety
 37 (90) days after the commencement of the period for which the
 38 insurer is liable, and that subsequent written proofs of the
 39 continuance of the disability must be furnished to the insurer
 40 at reasonable intervals as may be required by the insurer;
 41 (B) in the case of a claim for any other loss, written proof of
 42 the loss must be furnished to the insurer within ninety (90)

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- 1 days after the date of the loss; and
 2 (C) the failure to furnish proof within the time required under
 3 clause (A) or (B) does not invalidate or reduce any claim if it
 4 was not reasonably possible to furnish proof within that time,
 5 and if proof is furnished as soon as reasonably possible but
 6 (except in case of the absence of legal capacity of the
 7 claimant) no later than one (1) year from the time proof is
 8 otherwise required under the policy.
- 9 ~~(11)~~ **(12)** A provision that:
- 10 (A) all benefits payable under the policy (other than benefits
 11 for loss of time) will be paid within forty-five (45) days after
 12 the insurer receives all information required to determine
 13 liability under the terms of the policy; and
 14 (B) subject to due proof of loss, all accrued benefits under the
 15 policy for loss of time will be paid not less frequently than
 16 monthly during the continuance of the period for which the
 17 insurer is liable, and any balance remaining unpaid at the
 18 termination of the period for which the insurer is liable will be
 19 paid as soon as possible after receipt of the proof of loss.
- 20 ~~(12)~~ **(13)** A provision that benefits for loss of life of the person
 21 insured are payable to the beneficiary designated by the person
 22 insured. However, if the policy contains conditions pertaining to
 23 family status, the beneficiary may be the family member specified
 24 by the policy terms. In either case, payment of benefits for loss of
 25 life is subject to the provisions of the policy if no designated or
 26 specified beneficiary is living at the death of the person insured.
 27 All other benefits of the policy are payable to the person insured.
 28 The policy may also provide that if any benefit is payable to the
 29 estate of a person, or to a person who is a minor or otherwise not
 30 competent to give a valid release, the insurer may pay the benefit,
 31 up to an amount of five thousand dollars (\$5,000), to any relative
 32 by blood or connection by marriage of the person who is deemed
 33 by the insurer to be equitably entitled to the benefit.
- 34 ~~(13)~~ **(14)** A provision that the insurer has the right and must be
 35 allowed the opportunity to:
- 36 (A) examine the person of the individual for whom a claim is
 37 made under the policy when and as often as the insurer
 38 reasonably requires during the pendency of the claim; and
 39 (B) conduct an autopsy in case of death if it is not prohibited
 40 by law.
- 41 ~~(14)~~ **(15)** A provision that no action at law or in equity may be
 42 brought to recover on the policy less than sixty (60) days after

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1 proof of loss is filed in accordance with the requirements of the
 2 policy, and that no action may be brought at all more than three
 3 (3) years after the expiration of the time within which proof of
 4 loss is required by the policy.

5 ~~(15)~~ **(16)** In the case of a policy insuring debtors, a provision that
 6 the insurer will furnish to the policyholder, for delivery to each
 7 debtor insured under the policy, a certificate of insurance
 8 describing the coverage and specifying that the benefits payable
 9 will first be applied to reduce or extinguish the indebtedness.

10 ~~(16)~~ **(17)** If the policy provides that hospital or medical expense
 11 coverage of a dependent child of a group member terminates upon
 12 the child's attainment of the limiting age for dependent children
 13 set forth in the policy, a provision that the child's attainment of the
 14 limiting age does not terminate the hospital and medical coverage
 15 of the child while the child is:

16 (A) incapable of self-sustaining employment because of
 17 mental retardation or a physical disability; and

18 (B) chiefly dependent upon the group member for support and
 19 maintenance.

20 A provision under this subdivision may require that proof of the
 21 child's incapacity and dependency be furnished to the insurer by
 22 the group member within one hundred twenty (120) days of the
 23 child's attainment of the limiting age and, subsequently, at
 24 reasonable intervals during the two (2) years following the child's
 25 attainment of the limiting age. The policy may not require proof
 26 more than once per year in the time more than two (2) years after
 27 the child's attainment of the limiting age. This subdivision does
 28 not require an insurer to provide coverage to a mentally retarded
 29 or physically disabled child who does not satisfy the requirements
 30 of the group policy as to evidence of insurability or other
 31 requirements for coverage under the policy to take effect. In any
 32 case, the terms of the policy apply with regard to the coverage or
 33 exclusion from coverage of the child.

34 ~~(17)~~ **(18)** A provision that complies with the group portability and
 35 guaranteed renewability provisions of the federal Health
 36 Insurance Portability and Accountability Act of 1996
 37 (P.L.104-191).

38 (d) Subsection (c)(5), ~~(c)(7)~~; **(c)(8)**, and ~~(c)(12)~~ **(c)(13)** do not apply
 39 to policies insuring the lives of debtors. The standard provisions
 40 required under section 3(a) of this chapter for individual accident and
 41 sickness insurance policies do not apply to group accident and sickness
 42 insurance policies.

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1 (e) If any policy provision required under subsection (c) is in whole
2 or in part inapplicable to or inconsistent with the coverage provided by
3 an insurer under a particular form of policy, the insurer, with the
4 approval of the commissioner, shall delete the provision from the
5 policy or modify the provision in such a manner as to make it
6 consistent with the coverage provided by the policy.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1372, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FRY, Chair

Committee Vote: yeas 10, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1372 be amended to read as follows:

- Page 2, line 12, reset in roman "Except as provided".
- Page 2, line 13, reset in roman "in clause (C),".
- Page 2, line 13, delete "A" and insert "a".
- Page 2, reset in roman lines 17 through 19.
- Page 2, line 42, reset in roman "Except as provided in".
- Page 3, line 1, reset in roman "clause (C),".
- Page 3, line 1, delete "A" and insert "a".
- Page 3, line 4, reset in roman "An insurer may exclude any debtors as to whom evidence".
- Page 3, reset in roman line 5.
- Page 3, line 6, reset in roman "(D)".
- Page 3, line 11, reset in roman "(E)".
- Page 3, line 11, delete "(D)".
- Page 3, line 17, reset in roman "(F)".
- Page 3, line 17, delete "(E)".
- Page 3, line 17, reset in roman "(E),".
- Page 3, line 17, delete "(D),".
- Page 3, line 35, reset in roman "Except as provided in clause (C),".
- Page 3, line 35, delete "A" and insert "a".
- Page 3, reset in roman lines 40 through 42.
- Page 4, line 32, reset in roman "Except as provided in clause (C),".
- Page 4, line 32, delete "A" and insert "a".
- Page 4, reset in roman lines 37 through 39.
- Page 5, line 23, reset in roman "Except as provided in clause (D),".
- Page 5, line 23, delete "A" and insert "a".
- Page 5, reset in roman lines 28 through 30.
- Page 5, line 30, delete "." and insert "**to the extent consistent with IC 27-8-5-19(c)(5).**".
- Page 5, line 42, reset in roman "except as".
- Page 6, line 1, reset in roman "provided in clause (C),".
- Page 6, reset in roman lines 2 through 4.
- Page 6, delete lines 10 through 42.
- Page 7, delete lines 1 through 3.
- Page 8, line 12, reset in roman "A provision setting forth the conditions, if any, under which".
- Page 8, reset in roman lines 13 through 16.
- Page 8, line 17, reset in roman "(5)".
- Page 8, line 17, reset in roman "additional".
- Page 8, line 38, reset in roman "(6)".

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Page 8, line 38, delete "(5)".
Page 9, line 4, reset in roman "(7)".
Page 9, line 4, delete "(6)".
Page 9, line 12, reset in roman "(8)".
Page 9, line 12, delete "(7)".
Page 9, line 19, reset in roman "(9)".
Page 9, line 19, delete "(8)".
Page 9, line 31, reset in roman "(10)".
Page 9, line 31, delete "(9)".
Page 10, line 6, reset in roman "(11)".
Page 10, line 6, delete "(10)".
Page 10, line 17, reset in roman "(12)".
Page 10, line 17, delete "(11)".
Page 10, line 31, reset in roman "(13)".
Page 10, line 31, delete "(12)".
Page 10, line 38, reset in roman "(14)".
Page 10, line 38, delete "(13)".
Page 11, line 2, reset in roman "(15)".
Page 11, line 2, delete "(14)".
Page 11, line 7, reset in roman "(16)".
Page 11, line 7, delete "(15)".
Page 11, line 31, reset in roman "(17)".
Page 11, line 31, delete "(16)".
Page 11, line 35, reset in roman "(c)(5), (c)(7), and (c)(12)".
Page 11, line 35, delete "(c)(4), (c)(6), and (c)(11)".
Re-number all SECTIONS consecutively.

(Reference is to HB 1372 as printed February 25, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1372, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 30, delete "to the extent consistent with" and insert ", **except that a waiver or rider used to limit coverage must include the following:**

(i) **A signed acceptance of the waiver or rider by the insured.**

(ii) **A specific description of the medical condition, illness, or injury for which coverage is limited by the waiver or rider.**

(iii) **A statement that, upon receiving a written request by the insured, the insurer will review the underwriting basis for the waiver or rider and shall remove the waiver or rider if the evidence of insurability available to the insurer at that time is satisfactory to the insurer. An insured may not make a request under this item more than one (1) time each year."**

Page 5, delete line 31.

Page 6, line 1, after "and" insert ",."

Page 7, line 24, after "additional" insert "**preexisting condition**".

Page 7, line 27, delete "." and insert ",."

Page 7, line 29, strike "An" and insert "**not including a waiver or rider that limits coverage for a specific medical condition, illness, or injury according to the requirements stated in section 16(5)(D) of this chapter. A preexisting condition**".

Page 8, between lines 2 and 3, begin a new line block indented and insert:

"This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.6(a)(1) through 2.6(a)(9) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the



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person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and (B) may not apply to a loss incurred or disability beginning after the earlier of the following:

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.6(a)(1) through 2.6(a)(9) of this chapter."

- Page 8, line 3, strike "(6)" and insert "(7)".
- Page 8, line 11, strike "(7)" and insert "(8)".
- Page 8, line 19, strike "(8)" and insert "(9)".
- Page 8, line 26, strike "(9)" and insert "(10)".
- Page 8, line 38, strike "(10)" and insert "(11)".
- Page 9, line 13, strike "(11)" and insert "(12)".
- Page 9, line 24, strike "(12)" and insert "(13)".
- Page 9, line 38, strike "(13)" and insert "(14)".
- Page 10, line 3, strike "(14)" and insert "(15)".
- Page 10, line 9, strike "(15)" and insert "(16)".
- Page 10, line 14, strike "(16)" and insert "(17)".
- Page 10, line 38, strike "(17)" and insert "(18)".
- Page 10, line 42, strike "(c)(7)," and insert "(c)(8),".
- Page 10, line 42, strike "(c)(12)" and insert "(c)(13)".

and when so amended that said bill do pass.

(Reference is to HB 1372 as reprinted March 4, 1999.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1372 be amended to read as follows:

Page 1, delete lines 1 through 16.

Delete pages 2 through 5.

Page 6, delete lines 1 through 23.

Page 7, line 37, delete "preexisting condition".

Page 7, line 40, delete ",".

Page 7, line 40, reset in roman "and".

Page 7, reset in roman lines 41 through 42.

Page 8, line 1, reset in roman "An".

Page 8, line 1, delete "not including a waiver or rider that limits coverage for a".

Page 8, delete lines 2 through 3.

Page 8, line 4, delete "preexisting condition".

Page 8, delete lines 19 through 21.

Page 8, line 42, delete "2.6(a)(1)" and insert "**2.5(a)(1)**".

Page 9, line 1, delete "2.6(a)(9)" and insert "**2.5(a)(8)**".

Re-number all SECTIONS consecutively.

(Reference is to EHB 1372 as printed April 6, 1999.)

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