

# HOUSE BILL No. 1372

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-5.

**Synopsis:** Group health insurance and preexisting conditions. Removes provisions allowing insurers to exclude or limit coverage based on evidence of insurability in group accident and sickness insurance policies.

**Effective:** July 1, 1999.

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**Bischoff**

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

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Introduced

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.

## HOUSE BILL No. 1372

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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 27-8-5-16 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. Except as provided  
3 in sections 17 and 24 of this chapter, no policy of group accident and  
4 sickness insurance may be delivered or issued for delivery to a group  
5 that has a legal situs in Indiana unless it conforms to one (1) of the  
6 following descriptions:

7 (1) A policy issued to an employer or to the trustees of a fund  
8 established by an employer (which employer or trustees must be  
9 deemed the policyholder) to insure employees of the employer for  
10 the benefit of persons other than the employer, subject to the  
11 following requirements:

12 (A) The employees eligible for insurance under the policy  
13 must be all of the employees of the employer, or all of any  
14 class or classes of employees. The policy may provide that the  
15 term "employees" includes the employees of one (1) or more  
16 subsidiary corporations and the employees, individual  
17 proprietors, members, and partners of one (1) or more

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1 affiliated corporations, proprietorships, limited liability  
 2 companies, or partnerships if the business of the employer and  
 3 of the affiliated corporations, proprietorships, limited liability  
 4 companies, or partnerships is under common control. The  
 5 policy may provide that the term "employees" includes retired  
 6 employees, former employees, and directors of a corporate  
 7 employer. A policy issued to insure the employees of a public  
 8 body may provide that the term "employees" includes elected  
 9 or appointed officials.

10 (B) The premium for the policy must be paid either from the  
 11 employer's funds, from funds contributed by the insured  
 12 employees, or from both sources of funds. ~~Except as provided~~  
 13 ~~in clause (C);~~ A policy on which no part of the premium is to  
 14 be derived from funds contributed by the insured employees  
 15 must insure all eligible employees, except those who reject the  
 16 coverage in writing.

17 ~~(C) An insurer may exclude or limit the coverage on any~~  
 18 ~~person as to whom evidence of individual insurability is not~~  
 19 ~~satisfactory to the insurer.~~

20 (2) A policy issued to a creditor or its parent holding company or  
 21 to a trustee or trustees or agent designated by two (2) or more  
 22 creditors (which creditor, holding company, affiliate, trustee,  
 23 trustees, or agent must be deemed the policyholder) to insure  
 24 debtors of the creditor, or creditors, subject to the following  
 25 requirements:

26 (A) The debtors eligible for insurance under the policy must  
 27 be all of the debtors of the creditor or creditors, or all of any  
 28 class or classes of debtors. The policy may provide that the  
 29 term "debtors" includes:

30 (i) borrowers of money or purchasers or lessees of goods,  
 31 services, or property for which payment is arranged through  
 32 a credit transaction;

33 (ii) the debtors of one (1) or more subsidiary corporations;  
 34 and

35 (iii) the debtors of one (1) or more affiliated corporations,  
 36 proprietorships, limited liability companies, or partnerships  
 37 if the business of the policyholder and of the affiliated  
 38 corporations, proprietorships, limited liability companies, or  
 39 partnerships is under common control.

40 (B) The premium for the policy must be paid either from the  
 41 creditor's funds, from charges collected from the insured  
 42 debtors, or from both sources of funds. ~~Except as provided in~~

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1 ~~clause (C)~~; A policy on which no part of the premium is to be  
 2 derived from the funds contributed by insured debtors  
 3 specifically for their insurance must insure all eligible debtors.  
 4 (C) ~~An insurer may exclude any debtors as to whom evidence~~  
 5 ~~of individual insurability is not satisfactory to the insurer.~~  
 6 ~~(D)~~ The amount of the insurance payable with respect to any  
 7 indebtedness may not exceed the greater of the scheduled or  
 8 actual amount of unpaid indebtedness to the creditor. The  
 9 insurer may exclude any payments that are delinquent on the  
 10 date the debtor becomes disabled as defined in the policy.  
 11 ~~(E)~~ (D) The insurance may be payable to the creditor or any  
 12 successor to the right, title, and interest of the creditor. Each  
 13 payment under this clause must reduce or extinguish the  
 14 unpaid indebtedness of the debtor to the extent of the payment,  
 15 and any excess of the insurance must be payable to the insured  
 16 or the estate of the insured.  
 17 ~~(F)~~ (E) Notwithstanding clauses (A) through ~~(E)~~; (D),  
 18 insurance on agricultural credit transaction commitments may  
 19 be written up to the amount of the loan commitment on a  
 20 nondecreasing or level term plan, and insurance on  
 21 educational credit transaction commitments may be written up  
 22 to the amount of the loan commitment less the amount of any  
 23 repayments made on the loan.  
 24 (3) A policy issued to a labor union or similar employee  
 25 organization (which must be deemed to be the policyholder) to  
 26 insure members of the union or organization for the benefit of  
 27 persons other than the union or organization or any of its officials,  
 28 representatives, or agents, subject to the following requirements:  
 29 (A) The members eligible for insurance under the policy must  
 30 be all of the members of the union or organization, or all of  
 31 any class or classes of members.  
 32 (B) The premium for the policy must be paid either from funds  
 33 of the union or organization, from funds contributed by the  
 34 insured members specifically for their insurance, or from both  
 35 sources of funds. ~~Except as provided in clause (C)~~; A policy on  
 36 which no part of the premium is to be derived from funds  
 37 contributed by the insured members specifically for their  
 38 insurance must insure all eligible members, except those who  
 39 reject the coverage in writing.  
 40 ~~(C)~~ ~~An insurer may exclude or limit the coverage on any~~  
 41 ~~person as to whom evidence of individual insurability is not~~  
 42 ~~satisfactory to the insurer.~~

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1 (4) A policy issued to a trust or to one (1) or more trustees of a  
 2 fund established or adopted by two (2) or more employers, or by  
 3 one (1) or more labor unions or similar employee organizations,  
 4 or by one (1) or more employers and one (1) or more labor unions  
 5 or similar employee organizations (which trust or trustees must be  
 6 deemed the policyholder) to insure employees of the employers  
 7 or members of the unions or organizations for the benefit of  
 8 persons other than the employers or the unions or organizations,  
 9 subject to the following requirements:

10 (A) The persons eligible for insurance must be all of the  
 11 employees of the employers or all of the members of the  
 12 unions or organizations, or all of any class or classes of  
 13 employees or members. The policy may provide that the term  
 14 "employees" includes the employees of one (1) or more  
 15 subsidiary corporations and the employees, individual  
 16 proprietors, and partners of one (1) or more affiliated  
 17 corporations, proprietorships, limited liability companies, or  
 18 partnerships if the business of the employer and of the  
 19 affiliated corporations, proprietorships, limited liability  
 20 companies, or partnerships is under common control. The  
 21 policy may provide that the term "employees" includes retired  
 22 employees, former employees, and directors of a corporate  
 23 employer. The policy may provide that the term "employees"  
 24 includes the trustees or their employees, or both, if their duties  
 25 are principally connected with the trusteeship.

26 (B) The premium for the policy must be paid from funds  
 27 contributed by the employer or employers of the insured  
 28 persons, by the union or unions or similar employee  
 29 organizations, or by both, or from funds contributed by the  
 30 insured persons or from both the insured persons and one (1)  
 31 or more employers, unions, or similar employee organizations.  
 32 ~~Except as provided in clause (C);~~ A policy on which no part  
 33 of the premium is to be derived from funds contributed by the  
 34 insured persons specifically for their insurance must insure all  
 35 eligible persons, except those who reject the coverage in  
 36 writing.

37 ~~(C) An insurer may exclude or limit the coverage on any~~  
 38 ~~person as to whom evidence of individual insurability is not~~  
 39 ~~satisfactory to the insurer.~~

40 (5) A policy issued to an association or to a trust or to one (1) or  
 41 more trustees of a fund established, created, or maintained for the  
 42 benefit of members of one (1) or more associations. The

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1 association or associations must have at the outset a minimum of  
 2 one hundred (100) persons, must have been organized and  
 3 maintained in good faith for purposes other than that of obtaining  
 4 insurance, must have been in active existence for at least one (1)  
 5 year, and must have a constitution and bylaws that provide that  
 6 the association or associations hold regular meetings not less than  
 7 annually to further purposes of the members, that, except for  
 8 credit unions, the association or associations collect dues or  
 9 solicit contributions from members, and that the members have  
 10 voting privileges and representation on the governing board and  
 11 committees. The policy must be subject to the following  
 12 requirements:

13 (A) The policy may insure members or employees of the  
 14 association or associations, employees of members, one (1) or  
 15 more of the preceding, or all of any class or classes of  
 16 members, employees, or employees of members for the benefit  
 17 of persons other than the employee's employer.

18 (B) The premium for the policy must be paid from funds  
 19 contributed by the association or associations, by employer  
 20 members, or by both, from funds contributed by the covered  
 21 persons, or from both the covered persons and the association,  
 22 associations, or employer members.

23 (C) ~~Except as provided in clause (D);~~ A policy on which no  
 24 part of the premium is to be derived from funds contributed by  
 25 the covered persons specifically for the insurance must insure  
 26 all eligible persons, except those who reject such coverage in  
 27 writing.

28 ~~(D) An insurer may exclude or limit the coverage on any~~  
 29 ~~person as to whom evidence of individual insurability is not~~  
 30 ~~satisfactory to the insurer.~~

31 (6) A policy issued to a credit union, or to one (1) or more trustees  
 32 or an agent designated by two (2) or more credit unions (which  
 33 credit union, trustee, trustees, or agent must be deemed the  
 34 policyholder) to insure members of the credit union or credit  
 35 unions for the benefit of persons other than the credit union or  
 36 credit unions, trustee, trustees, or agent, or any of their officials,  
 37 subject to the following requirements:

38 (A) The members eligible for insurance must be all of the  
 39 members of the credit union or credit unions, or all of any  
 40 class or classes of members.

41 (B) The premium for the policy shall be paid by the  
 42 policyholder from the credit union's funds and ~~except as~~

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1 provided in clause ~~(C)~~; must insure all eligible members.

2 ~~(C) An insurer may exclude or limit the coverage on any~~  
 3 ~~member as to whom evidence of individual insurability is not~~  
 4 ~~satisfactory to the insurer.~~

5 (7) A policy issued to cover persons in a group specifically  
 6 described by another law of Indiana as a group that may be  
 7 covered for group life insurance. The provisions of the group life  
 8 insurance law relating to eligibility and evidence of insurability  
 9 apply to a group health policy to which this subdivision applies.

10 SECTION 2. IC 27-8-5-17 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. ~~(a)~~ A group  
 12 accident and sickness insurance policy shall not be delivered or issued  
 13 for delivery in Indiana to a group that is not described in section  
 14 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), or 16(7)  
 15 of this chapter unless the commissioner finds that:

16 (1) the issuance of the policy is not contrary to the best interest of  
 17 the public;

18 (2) the issuance of the policy would result in economies of  
 19 acquisition or administration; and

20 (3) the benefits of the policy are reasonable in relation to the  
 21 premiums charged.

22 ~~(b) Except as otherwise provided in this chapter, an insurer may~~  
 23 ~~exclude or limit the coverage under a policy described in subsection (a)~~  
 24 ~~on any person as to whom evidence of individual insurability is not~~  
 25 ~~satisfactory to the insurer.~~

26 SECTION 3. IC 27-8-5-18 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) Except for a  
 28 policy that conforms to the description in section 16(2) of this chapter,  
 29 a group accident and sickness insurance policy may be extended to  
 30 insure the employees or members, or any class or classes of employees  
 31 or members, with respect to their family members or dependents,  
 32 subject to ~~subsections~~ **subsection** (b). ~~and (c).~~

33 (b) The premium for the insurance must be paid from funds  
 34 contributed by the employer, union, association, or other person to  
 35 whom the policy has been issued or from funds contributed by the  
 36 covered persons, or from both sources of funds. ~~Except as provided in~~  
 37 ~~subsection (c).~~ A policy on which no part of the premium for the  
 38 coverage of family members or dependents is to be derived from funds  
 39 contributed by the covered persons must insure all eligible employees  
 40 or members, or any class or classes of eligible employees or members,  
 41 with respect to their spouses and dependent children.

42 ~~(c) Except as provided in section 24 of this chapter, an insurer may~~



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1 exclude or limit the coverage on any family member or dependent as  
 2 to whom evidence of individual insurability is not satisfactory to the  
 3 insurer.

4 SECTION 4. IC 27-8-5-19 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this  
 6 chapter, "late enrollee" has the meaning set forth in 26 U.S.C.  
 7 9801(b)(3).

8 (b) A policy of group accident and sickness insurance may not be  
 9 issued to a group that has a legal situs in Indiana unless it contains in  
 10 substance:

11 (1) the provisions described in subsection (c); or

12 (2) provisions that, in the opinion of the commissioner, are:

13 (A) more favorable to the persons insured; or

14 (B) at least as favorable to the persons insured and more  
 15 favorable to the policyholder;

16 than the provisions set forth in subsection (c).

17 (c) The provisions referred to in subsection (b)(1) are as follows:

18 (1) A provision that the policyholder is entitled to a grace period  
 19 of thirty-one (31) days for the payment of any premium due  
 20 except the first, during which grace period the policy will  
 21 continue in force, unless the policyholder has given the insurer  
 22 written notice of discontinuance in advance of the date of  
 23 discontinuance and in accordance with the terms of the policy.  
 24 The policy may provide that the policyholder is liable to the  
 25 insurer for the payment of a pro rata premium for the time the  
 26 policy was in force during the grace period. A provision under  
 27 this subdivision may provide that the insurer is not obligated to  
 28 pay claims incurred during the grace period until the premium  
 29 due is received.

30 (2) A provision that the validity of the policy may not be  
 31 contested, except for nonpayment of premiums, after the policy  
 32 has been in force for two (2) years after its date of issue, and that  
 33 no statement made by a person covered under the policy relating  
 34 to the person's insurability may be used in contesting the validity  
 35 of the insurance with respect to which the statement was made,  
 36 unless:

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

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

41 However, a provision under this subdivision may not preclude the  
 42 assertion at any time of defenses based upon a person's

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- 1 ineligibility for coverage under the policy or based upon other  
 2 provisions in the policy.
- 3 (3) A provision that a copy of the application, if there is one, of  
 4 the policyholder must be attached to the policy when issued, that  
 5 all statements made by the policyholder or by the persons insured  
 6 are to be deemed representations and not warranties, and that no  
 7 statement made by any person insured may be used in any contest  
 8 unless a copy of the instrument containing the statement is or has  
 9 been furnished to the insured person or, in the event of death or  
 10 incapacity of the insured person, to the insured person's  
 11 beneficiary or personal representative.
- 12 ~~(4) A provision setting forth the conditions, if any, under which~~  
 13 ~~the insurer reserves the right to require a person eligible for~~  
 14 ~~insurance to furnish evidence of individual insurability~~  
 15 ~~satisfactory to the insurer as a condition to part or all of the~~  
 16 ~~person's coverage.~~
- 17 ~~(5) A provision specifying any additional exclusions or limitations~~  
 18 ~~applicable under the policy with respect to a disease or physical~~  
 19 ~~condition of a person that existed before the effective date of the~~  
 20 ~~person's coverage under the policy. and that is not otherwise~~  
 21 ~~excluded from the person's coverage by name or specific~~  
 22 ~~description effective on the date of the person's loss. An exclusion~~  
 23 ~~or limitation that must be specified in a provision under this~~  
 24 ~~subdivision:~~
- 25 (A) may apply only to a disease or physical condition for  
 26 which medical advice, diagnosis, care, or treatment was  
 27 received by the person, or recommended to the person, during  
 28 the six (6) months before the enrollment date of the person's  
 29 coverage; and
- 30 (B) may not apply to a loss incurred or disability beginning  
 31 after the earlier of:
- 32 (i) the end of a continuous period of twelve (12) months  
 33 beginning on or after the enrollment date of the person's  
 34 coverage; or
- 35 (ii) the end of a continuous period of eighteen (18) months  
 36 beginning on the enrollment date of the person's coverage if  
 37 the person is a late enrollee.
- 38 ~~(6) (5) If premiums or benefits under the policy vary according to~~  
 39 ~~a person's age, a provision specifying an equitable adjustment of:~~
- 40 (A) premiums;
- 41 (B) benefits; or
- 42 (C) both premiums and benefits;

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1 to be made if the age of a covered person has been misstated. A  
 2 provision under this subdivision must contain a clear statement of  
 3 the method of adjustment to be used.

4 ~~(7)~~ (6) A provision that the insurer will issue to the policyholder,  
 5 for delivery to each person insured, a certificate setting forth a  
 6 statement that:

7 (A) explains the insurance protection to which the person  
 8 insured is entitled;

9 (B) indicates to whom the insurance benefits are payable; and

10 (C) explains any family member's or dependent's coverage  
 11 under the policy.

12 ~~(8)~~ (7) A provision stating that written notice of a claim must be  
 13 given to the insurer within twenty (20) days after the occurrence  
 14 or commencement of any loss covered by the policy, but that a  
 15 failure to give notice within the twenty (20) day period does not  
 16 invalidate or reduce any claim if it can be shown that it was not  
 17 reasonably possible to give notice within that period and that  
 18 notice was given as soon as was reasonably possible.

19 ~~(9)~~ (8) A provision stating that:

20 (A) the insurer will furnish to the person making a claim, or to  
 21 the policyholder for delivery to the person making a claim,  
 22 forms usually furnished by the insurer for filing proof of loss;  
 23 and

24 (B) if the forms are not furnished within fifteen (15) days after  
 25 the insurer received notice of a claim, the person making the  
 26 claim will be deemed to have complied with the requirements  
 27 of the policy as to proof of loss upon submitting, within the  
 28 time fixed in the policy for filing proof of loss, written proof  
 29 covering the occurrence, character, and extent of the loss for  
 30 which the claim is made.

31 ~~(10)~~ (9) A provision stating that:

32 (A) in the case of a claim for loss of time for disability, written  
 33 proof of the loss must be furnished to the insurer within ninety  
 34 (90) days after the commencement of the period for which the  
 35 insurer is liable, and that subsequent written proofs of the  
 36 continuance of the disability must be furnished to the insurer  
 37 at reasonable intervals as may be required by the insurer;

38 (B) in the case of a claim for any other loss, written proof of  
 39 the loss must be furnished to the insurer within ninety (90)  
 40 days after the date of the loss; and

41 (C) the failure to furnish proof within the time required under  
 42 clause (A) or (B) does not invalidate or reduce any claim if it

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1 was not reasonably possible to furnish proof within that time,  
2 and if proof is furnished as soon as reasonably possible but  
3 (except in case of the absence of legal capacity of the  
4 claimant) no later than one (1) year from the time proof is  
5 otherwise required under the policy.

6 ~~(11)~~ **(10)** A provision that:

7 (A) all benefits payable under the policy (other than benefits  
8 for loss of time) will be paid within forty-five (45) days after  
9 the insurer receives all information required to determine  
10 liability under the terms of the policy; and

11 (B) subject to due proof of loss, all accrued benefits under the  
12 policy for loss of time will be paid not less frequently than  
13 monthly during the continuance of the period for which the  
14 insurer is liable, and any balance remaining unpaid at the  
15 termination of the period for which the insurer is liable will be  
16 paid as soon as possible after receipt of the proof of loss.

17 ~~(12)~~ **(11)** A provision that benefits for loss of life of the person  
18 insured are payable to the beneficiary designated by the person  
19 insured. However, if the policy contains conditions pertaining to  
20 family status, the beneficiary may be the family member specified  
21 by the policy terms. In either case, payment of benefits for loss of  
22 life is subject to the provisions of the policy if no designated or  
23 specified beneficiary is living at the death of the person insured.  
24 All other benefits of the policy are payable to the person insured.  
25 The policy may also provide that if any benefit is payable to the  
26 estate of a person, or to a person who is a minor or otherwise not  
27 competent to give a valid release, the insurer may pay the benefit,  
28 up to an amount of five thousand dollars (\$5,000), to any relative  
29 by blood or connection by marriage of the person who is deemed  
30 by the insurer to be equitably entitled to the benefit.

31 ~~(13)~~ **(12)** A provision that the insurer has the right and must be  
32 allowed the opportunity to:

33 (A) examine the person of the individual for whom a claim is  
34 made under the policy when and as often as the insurer  
35 reasonably requires during the pendency of the claim; and

36 (B) conduct an autopsy in case of death if it is not prohibited  
37 by law.

38 ~~(14)~~ **(13)** A provision that no action at law or in equity may be  
39 brought to recover on the policy less than sixty (60) days after  
40 proof of loss is filed in accordance with the requirements of the  
41 policy, and that no action may be brought at all more than three  
42 (3) years after the expiration of the time within which proof of

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1 loss is required by the policy.

2 ~~(15)~~ **(14)** In the case of a policy insuring debtors, a provision that  
3 the insurer will furnish to the policyholder, for delivery to each  
4 debtor insured under the policy, a certificate of insurance  
5 describing the coverage and specifying that the benefits payable  
6 will first be applied to reduce or extinguish the indebtedness.

7 ~~(16)~~ **(15)** If the policy provides that hospital or medical expense  
8 coverage of a dependent child of a group member terminates upon  
9 the child's attainment of the limiting age for dependent children  
10 set forth in the policy, a provision that the child's attainment of the  
11 limiting age does not terminate the hospital and medical coverage  
12 of the child while the child is:

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

15 (B) chiefly dependent upon the group member for support and  
16 maintenance.

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

31 ~~(17)~~ **(16)** A provision that complies with the group portability and  
32 guaranteed renewability provisions of the federal Health  
33 Insurance Portability and Accountability Act of 1996  
34 (P.L.104-191).

35 (d) Subsection ~~(c)(5); (c)(7); and (c)(12)~~ **(c)(4), (c)(6), and (c)(11)**  
36 do not apply to policies insuring the lives of debtors. The standard  
37 provisions required under section 3(a) of this chapter for individual  
38 accident and sickness insurance policies do not apply to group accident  
39 and sickness insurance policies.

40 (e) If any policy provision required under subsection (c) is in whole  
41 or in part inapplicable to or inconsistent with the coverage provided by  
42 an insurer under a particular form of policy, the insurer, with the

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1 approval of the commissioner, shall delete the provision from the  
2 policy or modify the provision in such a manner as to make it  
3 consistent with the coverage provided by the policy.

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