

# HOUSE BILL No. 1075

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-8-5; IC 27-8-10-5.1.

**Synopsis:** Health insurance waivers. Provides that an individual policy of accident and sickness insurance and certain association or discretionary group policies of accident and sickness insurance may contain a waiver of coverage for a specified condition if certain requirements are met. Specifies that an offer of coverage under a policy that includes a waiver does not preclude eligibility for a comprehensive health insurance association policy.

**Effective:** July 1, 2005.

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**Torr, Borders**

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January 6, 2005, read first time and referred to Committee on Insurance.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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## HOUSE BILL No. 1075



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 27-8-5-2.7 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2005]: **Sec. 2.7. (a) As used in this section, the term "policy of**
- 4 **accident and sickness insurance" does not include the following:**
- 5 **(1) Accident only, credit, dental, vision, Medicare supplement,**
- 6 **long term care, or disability income insurance.**
- 7 **(2) Coverage issued as a supplement to liability insurance.**
- 8 **(3) Automobile medical payment insurance.**
- 9 **(4) A specified disease policy issued as an individual policy.**
- 10 **(5) A limited benefit health insurance policy issued as an**
- 11 **individual policy.**
- 12 **(6) A short term insurance plan that:**
- 13 **(A) may not be renewed; and**
- 14 **(B) has a duration of not more than six (6) months.**
- 15 **(7) A policy that provides a stipulated daily, weekly, or**
- 16 **monthly payment to an insured during hospital confinement,**
- 17 **without regard to the actual expense of the confinement.**



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- (8) Worker's compensation or similar insurance.**
  - (9) A student health insurance policy.**
  - (b) Notwithstanding section 2.5 of this chapter, an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if all of the following conditions are met:**
    - (1) The insurer provides to the applicant before issuance of the policy written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.**
    - (2) The:**
      - (A) offer of coverage; and**
      - (B) policy;****include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.**
    - (3) The:**
      - (A) offer of coverage; and**
      - (B) policy;****do not include more than two (2) waivers per individual.**
    - (4) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.**
    - (5) The insurer agrees to review the waiver upon request if:**
      - (A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and**
      - (B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;****for at least two (2) years.**
    - (6) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.**
    - (7) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.**
- The insurer shall require an applicant to initial the written notice provided under subdivision (1) and the waiver included in the offer**

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1 of coverage and in the policy under subdivision (2) to acknowledge  
2 acceptance of the waiver of coverage. An offer of coverage under  
3 a policy that includes a waiver under this subsection does not  
4 preclude eligibility for an Indiana comprehensive health insurance  
5 association policy under IC 27-8-10-5.1.

6 (c) Notwithstanding subsection (b), an individual policy of  
7 accident and sickness insurance may not include a waiver of  
8 coverage for:

- 9 (1) a mental health condition; or
- 10 (2) a developmental disability.

11 SECTION 2. IC 27-8-5-19.3 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2005]: **Sec. 19.3. (a) This section applies to an association or a  
14 discretionary group policy of accident and sickness insurance:**

- 15 (1) under which a certificate of coverage is issued to an  
16 individual member of the association or discretionary group;
- 17 (2) under which a member of the association or discretionary  
18 group is individually underwritten; and
- 19 (3) that is not employer based.

20 (b) Notwithstanding sections 19 and 19.2 of this chapter, a policy  
21 described in subsection (a) may contain a waiver of coverage for a  
22 specified condition and any complications that arise from the  
23 specified condition if all of the following conditions are met:

- 24 (1) The insurer provides to the applicant before issuance of  
25 the policy written notice explaining the waiver of coverage for  
26 the specified condition and complications arising from the  
27 specified condition.
- 28 (2) The:
  - 29 (A) offer of coverage; and
  - 30 (B) certificate of coverage;
 include the waiver in a separate section stating in bold print  
31 that the applicant is receiving coverage with an exception for  
32 the waived condition.
- 33 (3) The:
  - 34 (A) offer of coverage; and
  - 35 (B) certificate of coverage;
 do not include more than two (2) waivers per individual.
- 36 (4) The waiver period is concurrent with and not in addition  
37 to any applicable preexisting condition limitation or  
38 exclusionary period.
- 39 (5) The insurer agrees to review the waiver upon request if:
  - 40 (A) the individual to whom the waiver applies has not
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received medical advice, diagnosis, care, or treatment related to the waived condition; and

**(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;**

for at least two (2) years.

**(6) The insurer discloses to the applicant that the applicant may decline the offer of coverage, and that any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.**

**(7) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.**

**(c) The insurer shall require an applicant to initial the written notice provided under subsection (b)(1) and the waiver included in the offer of coverage and in the certificate of coverage under subsection (b)(2) to acknowledge acceptance of the waiver of coverage.**

**(d) An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.**

**(e) Notwithstanding subsection (b), a policy described in subsection (a) may not include a waiver of coverage for:**

- (1) a mental health condition; or**
- (2) a developmental disability.**

SECTION 3. IC 27-8-10-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e), or IC 27-8-5-2.7, IC 27-8-5-19.2(e), or IC 27-8-5-19.3 does not affect an individual's eligibility for an association policy under this subsection. Coverage

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1 under any association policy is in excess of, and may not duplicate,  
2 coverage under any other form of health insurance.

3 (c) Except as provided in IC 27-13-16-4 and subsection (a), a person  
4 is eligible for an association policy upon a showing that:

5 (1) the person has been rejected by one (1) carrier for coverage  
6 under any insurance plan that equals or exceeds the minimum  
7 requirements for accident and sickness insurance policies issued  
8 in Indiana, as set forth in IC 27, without material underwriting  
9 restrictions;

10 (2) an insurer has refused to issue insurance except at a rate  
11 exceeding the association plan rate; or

12 (3) the person is a federally eligible individual.

13 For the purposes of this subsection, eligibility for Medicare coverage  
14 does not disqualify a person who is less than sixty-five (65) years of  
15 age from eligibility for an association policy.

16 (d) Coverage under an association policy terminates as follows:

17 (1) On the first date on which an insured is no longer a resident of  
18 Indiana.

19 (2) On the date on which an insured requests cancellation of the  
20 association policy.

21 (3) On the date of the death of an insured.

22 (4) At the end of the policy period for which the premium has  
23 been paid.

24 (5) On the first date on which the insured no longer meets the  
25 eligibility requirements under this section.

26 (e) An association policy must provide that coverage of a dependent  
27 unmarried child terminates when the child becomes nineteen (19) years  
28 of age (or twenty-five (25) years of age if the child is enrolled full-time  
29 in an accredited educational institution). The policy must also provide  
30 in substance that attainment of the limiting age does not operate to  
31 terminate a dependent unmarried child's coverage while the dependent  
32 is and continues to be both:

33 (1) incapable of self-sustaining employment by reason of mental  
34 retardation or mental or physical disability; and

35 (2) chiefly dependent upon the person in whose name the contract  
36 is issued for support and maintenance.

37 However, proof of such incapacity and dependency must be furnished  
38 to the carrier within one hundred twenty (120) days of the child's  
39 attainment of the limiting age, and subsequently as may be required by  
40 the carrier, but not more frequently than annually after the two (2) year  
41 period following the child's attainment of the limiting age.

42 (f) An association policy that provides coverage for a family

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1 member of the person in whose name the contract is issued must, as to  
 2 the family member's coverage, also provide that the health insurance  
 3 benefits applicable for children are payable with respect to a newly  
 4 born child of the person in whose name the contract is issued from the  
 5 moment of birth. The coverage for newly born children must consist of  
 6 coverage of injury or illness, including the necessary care and treatment  
 7 of medically diagnosed congenital defects and birth abnormalities. If  
 8 payment of a specific premium is required to provide coverage for the  
 9 child, the contract may require that notification of the birth of a child  
 10 and payment of the required premium must be furnished to the carrier  
 11 within thirty-one (31) days after the date of birth in order to have the  
 12 coverage continued beyond the thirty-one (31) day period.

13 (g) Except as provided in subsection (h), an association policy may  
 14 contain provisions under which coverage is excluded during a period  
 15 of three (3) months following the effective date of coverage as to a  
 16 given covered individual for preexisting conditions, as long as medical  
 17 advice or treatment was recommended or received within a period of  
 18 three (3) months before the effective date of coverage. This subsection  
 19 may not be construed to prohibit preexisting condition provisions in an  
 20 insurance policy that are more favorable to the insured.

21 (h) If a person applies for an association policy within six (6)  
 22 months after termination of the person's coverage under a health  
 23 insurance arrangement and the person meets the eligibility  
 24 requirements of subsection (c), then an association policy may not  
 25 contain provisions under which:

26 (1) coverage as to a given individual is delayed to a date after the  
 27 effective date or excluded from the policy; or

28 (2) coverage as to a given condition is denied;

29 on the basis of a preexisting health condition. This subsection may not  
 30 be construed to prohibit preexisting condition provisions in an  
 31 insurance policy that are more favorable to the insured.

32 (i) For purposes of this section, coverage under a health insurance  
 33 arrangement includes, but is not limited to, coverage pursuant to the  
 34 Consolidated Omnibus Budget Reconciliation Act of 1985.

35 **SECTION 4. [EFFECTIVE JULY 1, 2005] IC 27-8-5-2.7 and**  
 36 **IC 27-8-5-19.3, both as added by this act, apply to a policy of**  
 37 **accident and sickness insurance that is issued, delivered, amended,**  
 38 **or renewed after June 30, 2005.**

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