

HOUSE BILL 32

C3

(91r0789)

ENROLLED BILL

—Health and Government Operations/Finance—

Introduced by **Delegate Kullen**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Limitations on Preexisting Condition Provisions -**
3 **~~Applicability~~ Individual Health Benefit Plans**

4 FOR the purpose of ~~expanding the applicability of certain provisions of law that limit~~
5 ~~the imposition of certain preexisting condition provisions by certain carriers to a~~
6 ~~policy or certificate issued to an individual in accordance with certain provisions~~
7 ~~of law; altering a certain definition; prohibiting certain application forms from~~
8 ~~containing inquiries about certain conditions, illnesses, diseases, or medical~~
9 ~~procedures; prohibiting an insurer or nonprofit health service plan from~~
10 ~~attaching an exclusionary rider to an individual health benefit plan unless the~~
11 ~~insurer or nonprofit health service plan obtains the prior written consent of the~~
12 ~~policyholder; authorizing an insurer or nonprofit health service plan to impose a~~
13 ~~preexisting condition exclusion or limitation on an individual for a certain~~
14 ~~condition under certain circumstances; prohibiting the imposition of a~~
15 ~~preexisting condition exclusion or limitation on a certain individual under~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 certain circumstances; defining certain terms; making a conforming change;
 2 providing for the application of this Act; and generally relating to preexisting
 3 condition limitations.

4 BY repealing and reenacting, with amendments,
 5 Article – Insurance
 6 Section ~~15-508~~ 12-205
 7 Annotated Code of Maryland
 8 (~~2006~~ 2003 Replacement Volume and 2008 Supplement)

9 BY adding to
 10 Article – Insurance
 11 Section 15-508.1
 12 Annotated Code of Maryland
 13 (2006 Replacement Volume and 2008 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Insurance**

17 12-205.

18 (a) (1) The Commissioner shall disapprove a form or withdraw the
 19 previous approval of a form filed under § 12-203 of this subtitle if the form does not
 20 meet the requirements of subsection (b) of this section.

21 (2) The order of disapproval or withdrawal of approval shall inform
 22 the insurer of:

23 (i) a statutory or regulatory basis for the disapproval or
 24 withdrawal of approval; and

25 (ii) an explanation of the application of the statutory or
 26 regulatory basis for the disapproval or withdrawal of approval.

27 (b) A form may not:

28 (1) in any respect violate or fail to comply with this article;

29 (2) contain or incorporate by reference, if the incorporation is
 30 otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or
 31 exceptions and conditions that deceptively affect the risk purported to be assumed in
 32 the general coverage of the contract;

33 (3) have a title, heading, or other indication of its provisions that is
 34 likely to mislead the policyholder or certificate holder;

1 (4) contain an inequitable provision of insurance without substantial
2 benefit to the policyholder;

3 (5) be printed or otherwise reproduced so as to make a provision of the
4 form substantially illegible;

5 (6) provide benefits in a health insurance policy that are unreasonable
6 in relation to the premium charged;

7 (7) contain, irrespective of the premium charged, a benefit that is not
8 sufficient to be of real economic value to the insured;

9 (8) fail to provide minimum benefits or coverages that the
10 Commissioner considers necessary to meet the minimum needs of the insured; or

11 (9) in a health insurance application form **OR A NONPROFIT HEALTH**
12 **SERVICE PLAN APPLICATION FORM**, contain inquiries about:

13 (i) a preexisting condition, illness, or disease for which the
14 applicant has not received medical care or advice from a licensed health care provider:

15 1. during the 7 years immediately before the date of
16 [the] application; or

17 2. **FOR AN APPLICATION FOR AN INDIVIDUAL**
18 **HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15-508.1 OF THIS ARTICLE,**
19 **DURING THE 5 YEARS IMMEDIATELY BEFORE THE DATE OF APPLICATION; OR**

20 (ii) medical screening, testing, monitoring, or any other similar
21 medical procedure that the Commissioner specifies and that the applicant received:

22 1. more than 7 years before the date of application; **OR**

23 2. **FOR AN APPLICATION FOR AN INDIVIDUAL**
24 **HEALTH BENEFIT PLAN THAT IS SUBJECT TO § 15-508.1 OF THIS ARTICLE,**
25 **MORE THAN 5 YEARS BEFORE THE DATE OF APPLICATION.**

26 **15-508.1.**

27 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
28 **MEANINGS INDICATED.**

29 (2) **“CARRIER” MEANS AN INSURER OR A NONPROFIT HEALTH**
30 **SERVICE PLAN.**

1 (3) “CREDITABLE COVERAGE” HAS THE MEANING STATED IN §
2 15-1301 OF THIS TITLE.

3 (4) “EXCLUSIONARY RIDER” MEANS AN ENDORSEMENT TO AN
4 INDIVIDUAL HEALTH BENEFIT PLAN THAT EXCLUDES BENEFITS FOR ONE OR
5 MORE NAMED CONDITIONS THAT ARE DISCOVERED BY A CARRIER DURING THE
6 UNDERWRITING PROCESS.

7 (5) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN §
8 15-1301 OF THIS TITLE.

9 (6) “INDIVIDUAL HEALTH BENEFIT PLAN” MEANS A HEALTH
10 BENEFIT PLAN ISSUED BY A CARRIER THAT INSURES:

11 (I) ONLY ONE INDIVIDUAL; OR

12 (II) ONE INDIVIDUAL AND ONE OR MORE ~~DEPENDENTS~~
13 FAMILY MEMBERS OF THE INDIVIDUAL.

14 (B) A CARRIER MAY NOT ATTACH AN EXCLUSIONARY RIDER TO AN
15 INDIVIDUAL HEALTH BENEFIT PLAN UNLESS THE CARRIER OBTAINS THE PRIOR
16 WRITTEN CONSENT OF THE POLICYHOLDER.

17 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A
18 CARRIER MAY IMPOSE A PREEXISTING CONDITION EXCLUSION OR LIMITATION
19 ON AN INDIVIDUAL FOR A CONDITION THAT WAS NOT DISCOVERED DURING THE
20 UNDERWRITING PROCESS FOR AN INDIVIDUAL HEALTH BENEFIT PLAN ONLY IF
21 THE EXCLUSION OR LIMITATION:

22 (1) RELATES TO A CONDITION OF THE INDIVIDUAL, REGARDLESS
23 OF ITS CAUSE, FOR WHICH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT
24 WAS RECOMMENDED OR RECEIVED WITHIN THE 12-MONTH PERIOD
25 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE INDIVIDUAL’S
26 COVERAGE;

27 (2) EXTENDS FOR A PERIOD OF NOT MORE THAN 12 MONTHS
28 AFTER THE EFFECTIVE DATE OF THE INDIVIDUAL’S COVERAGE; AND

29 (3) IS REDUCED BY THE AGGREGATE OF ANY APPLICABLE
30 PERIODS OF CREDITABLE COVERAGE.

31 (D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A
32 CARRIER MAY NOT IMPOSE A PREEXISTING CONDITION EXCLUSION OR

1 LIMITATION ON AN INDIVIDUAL WHO, AS OF THE LAST DAY OF THE 30-DAY
2 PERIOD BEGINNING WITH THE DATE OF THE INDIVIDUAL'S BIRTH, IS COVERED
3 UNDER ANY CREDITABLE COVERAGE.

4 (2) THE LIMITATION ON THE IMPOSITION OF A PREEXISTING
5 CONDITION EXCLUSION OR LIMITATION UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION DOES NOT APPLY AFTER THE END OF THE FIRST 63-DAY PERIOD
7 DURING ALL OF WHICH THE INDIVIDUAL WAS NOT COVERED UNDER ANY
8 CREDITABLE COVERAGE.

9 ~~15-508.~~

10 (a) ~~(1) In this section the following words have the meanings indicated.~~

11 ~~(2) "Carrier" has the meaning stated in § 15-1301 of this title.~~

12 ~~(3) "Enrollment date" has the meaning stated in § 15-1301 of this~~
13 ~~title.~~

14 ~~(4) "Policy or certificate" means any [group] INDIVIDUAL, GROUP, or~~
15 ~~blanket health insurance contract or policy that is issued or delivered in the State by~~
16 ~~an insurer or nonprofit health service plan that provides hospital, medical, or surgical~~
17 ~~benefits on an expense incurred basis.~~

18 ~~(5) "Preexisting condition provision" has the meaning stated in §~~
19 ~~15-1301 of this title.~~

20 ~~(6) "Late enrollee" has the meaning stated in § 15-1401 of this title.~~

21 ~~(b) This section does not apply to a policy or certificate issued to a small~~
22 ~~employer in accordance with Subtitle 12 of this title[, or to an individual in accordance~~
23 ~~with Subtitle 13 of this title].~~

24 ~~(c) Except as otherwise provided in subsection (d) of this section, a carrier~~
25 ~~may impose a preexisting condition provision only if it:~~

26 ~~(1) relates to a condition, regardless of the cause of the condition, for~~
27 ~~which medical advice, diagnosis, care, or treatment was recommended or received~~
28 ~~within the 6-month period ending on the enrollment date;~~

29 ~~(2) extends for a period of not more than 12 months after the~~
30 ~~enrollment date or 18 months in the case of a late enrollee; and~~

31 ~~(3) is reduced by the aggregate of the periods of creditable coverage, as~~
32 ~~defined in Subtitle 14 of this title.~~

HOUSE BILL 32

1 ~~(d) (1) Subject to paragraph (4) of this subsection, a carrier may not~~
 2 ~~impose any preexisting condition provision on an individual who, as of the last day of~~
 3 ~~the 30-day period beginning with the date of birth, is covered under creditable~~
 4 ~~coverage.~~

5 ~~(2) Subject to paragraph (4) of this subsection, a carrier may not~~
 6 ~~impose any preexisting condition provisions on a child who:~~

7 ~~(i) is adopted or placed for adoption before attaining 18 years of~~
 8 ~~age; and~~

9 ~~(ii) as of the last day of the 30-day period beginning on the date~~
 10 ~~of adoption or placement for adoption, is covered under creditable coverage.~~

11 ~~(3) A carrier may not impose any preexisting condition provisions~~
 12 ~~relating to pregnancy.~~

13 ~~(4) Paragraphs (1) and (2) of this subsection do not apply to an~~
 14 ~~individual after the end of the first 63-day period during all of which the individual~~
 15 ~~was not covered under any creditable coverage.~~

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all
 17 policies ~~and contracts~~, contracts, and health benefit plans issued, delivered, or
 18 renewed in the State on or after October 1, 2009.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 20 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.