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1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

SENATE BILL NO. 315

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to long-term disability insurance;
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. PURPOSE. The purpose of this Act is to promote the public
10 interest and the availability of long-term disability insurance policies,
11 to protect applicants for long-term disability insurance from unfair or
12 deceptive sales or enrollment practices, to establish standards for long-
13 term disability insurance, to facilitate public understanding and compari-
14 son of long-term disability insurance policies, and to facilitate flexibil-
15 ity and innovation in the development of long-term disability insurance
16 coverage.

17 * Sec. 2. AS 21 is amended by adding a new chapter to read:

18 CHAPTER 53. LONG-TERM DISABILITY INSURANCE.

19 Sec. 21.53.010. PROHIBITED SALE OR ADVERTISING. An insurer may
20 not advertise, market, sell, deliver, or offer for delivery a long-
21 term disability insurance policy unless the policy complies with this
22 chapter as well as the disability insurance requirements imposed under
23 AS 21.51, and, if a group policy, the group disability insurance
24 requirements imposed under AS 21.54.

25 Sec. 21.53.020. DISCLOSURE AND PERFORMANCE STANDARDS. An insur-
26 er who delivers or issues for delivery a long-term disability insur-
27 ance policy may not

28 (1) cancel, fail to renew, or otherwise terminate the
29 policy on the grounds of age or deterioration of the mental or

1 physical health of the insured or certificate holder;

2 (2) include a provision requiring a new waiting period in
3 the event existing coverage is converted to or replaced by a new or
4 another form of disability insurance within the same company, unless
5 there is an increase in benefits voluntarily selected by the insured;
6 or

7 (3) provide coverage only for skilled nursing care, or
8 provide significantly more coverage for skilled care in a facility
9 than is provided for coverage for lower levels of care; evaluation of
10 the coverage provided under this paragraph must be based on the number
11 of days of coverage provided for lower levels of care, when compared
12 to the number of days of coverage provided for skilled care.

13 Sec. 21.53.030. PREEXISTING CONDITIONS. (a) An insurer may not
14 include, in a long-term disability insurance policy or certificate, a
15 definition of "preexisting condition" that is more restrictive than
16 the following: preexisting condition means the existence of symptoms
17 that would cause an ordinarily prudent person to seek diagnosis, care,
18 or treatment, or a condition for which medical advice or treatment was
19 recommended by, or received from a provider of health care services,
20 within six months preceding the effective date of coverage of an
21 insured person.

22 (b) In a long-term disability insurance policy or certificate an
23 insurer may not exclude coverage for a loss or confinement that is the
24 result of a preexisting condition, unless the loss or confinement
25 begins within six months following the effective date of coverage of
26 an insured person.

27 (c) The director may extend the limitation periods established
28 under (a) and (b) of this section for specific age group categories or
29 specific policy forms, if the director finds that the extension is in

1 the best interest of the public.

2 (d) This section does not prohibit an insurer from using an
3 application form designed to elicit the complete health history of an
4 applicant, and, on the basis of the answers on the application, from
5 applying that insurer's established underwriting standards. Unless
6 otherwise provided in the policy or certificate, a preexisting condi-
7 tion, regardless of whether it is disclosed on the application, need
8 not be covered until the waiting period described in (b) of this
9 section expires. A long-term disability insurance policy or certifi-
10 cate may not exclude, limit, or reduce, or use waivers or riders of
11 any kind to exclude, limit, or reduce coverage or benefits for specif-
12 ically named or described preexisting diseases or physical conditions
13 after the waiting period described in (b) of this section, unless the
14 waiver or rider has been specifically approved by the director.

15 (e) Subsections (a) and (b) of this section do not apply to
16 group long-term disability insurance.

17 Sec. 21.53.040. PRIOR HOSPITAL OR INSTITUTIONAL CARE CONDITIONS
18 PROHIBITED. (a) A long-term disability insurance policy may not be
19 delivered or issued for delivery in this state if the policy condi-
20 tions eligibility

21 (1) on a prior hospitalization requirement;

22 (2) on the receipt of a higher level of institutional care,
23 when care is provided in an institutional setting;

24 (3) for noninstitutional benefits on a prior institutional
25 stay of more than 30 days for which benefits are paid; or

26 (4) on admission to an institutional care facility for the
27 same or a related condition within a period of less than 30 days after
28 discharge from the institution, if the policy provides benefits only
29 following institutionalization.

1 (b) A long-term disability insurance policy may contain a limi-
2 tation or condition on eligibility for benefits, not prohibited in (a)
3 of this section, if the limitation or condition is clearly set out in
4 a separate paragraph of the policy or certificate.

5 Sec. 21.53.050. RIGHT OF RETURN; OUTLINE OF COVERAGE. (a)
6 Individual long-term disability insurance policyholders may return a
7 policy within 10 days after delivery and have the premium refunded if,
8 after examination of the policy, the policy holder is not satisfied
9 with the policy. An individual long-term disability insurance policy
10 must have a notice prominently printed on the first page of the policy
11 or separately attached stating that the policyholder has the right to
12 return the policy within 10 days of its delivery and to have the
13 premium refunded if, after examination of the policy, the policyholder
14 is not satisfied with the policy.

15 (b) A person insured under a long-term disability insurance
16 policy issued under a direct response solicitation has the right to
17 return the policy within 30 days of its delivery and to have the
18 premium refunded if, after examination, the insured person is not
19 satisfied with the policy. Long-term disability insurance policies
20 issued under a direct response solicitation must have a notice promi-
21 nently printed on the first page or attached to the policy stating in
22 substance that the insured person has the right to return the policy
23 within 30 days of its delivery and to have the premium refunded if
24 after examination the insured person is not satisfied with the policy.

25 (c) An insurer shall deliver an outline of coverage to a pro-
26 spective applicant for long-term disability insurance at the time of
27 initial solicitation by a means that prominently directs the attention
28 of the recipient to the document and its purpose. In the case of
29 agent solicitations, an agent shall deliver the outline of coverage

1 before the presentation of an application or enrollment form. In the
2 case of direct response solicitations, the outline of coverage must be
3 presented in conjunction with an application or enrollment form. The
4 outline of coverage must include

5 (1) a description of the principal benefits and coverage
6 provided in the policy;

7 (2) a statement of the principal exclusions, reductions,
8 and limitations contained in the policy;

9 (3) a statement of the terms under which the policy or
10 certificate, or both, may be continued in force or discontinued,
11 including a reservation in the policy of a right to change the pre-
12 mium; continuation or conversion provisions of group coverage must be
13 specifically described;

14 (4) a statement that the outline of coverage is a summary
15 only, not a contract of insurance, and that the policy or group master
16 policy contain governing contractual provisions;

17 (5) a description of the terms under which the policy or
18 certificate may be returned and premium refunded; and

19 (6) a brief description of the relationship between the
20 cost of care and benefits.

21 (d) A certificate issued under a group long-term disability
22 insurance policy that is delivered or issued for delivery in this
23 state must include

24 (1) a description of the principal benefits and coverage
25 provided in the policy;

26 (2) a statement of the principal exclusions, reductions,
27 and limitations contained in the policy; and

28 (3) a statement that the group master policy establishes
29 the governing contractual provisions.

1 Sec. 21.53.060. GROUP LONG-TERM DISABILITY INSURANCE. Group
2 long-term disability insurance coverage may not be offered to a resi-
3 dent of this state under a group policy issued in another state,
4 unless the state in which the policy is issued has statutory or regu-
5 latory provisions applicable to group long-term disability insurance
6 that are substantially similar to this chapter.

7 Sec. 21.53.070. ORGANIZATIONAL REQUIREMENTS OF ASSOCIATIONS. An
8 insurer may not issue group long-term disability insurance to an
9 association or a trust or the trustee of a fund established, created,
10 or maintained for the benefit of members of one or more associations,
11 unless the association or the insurer of the association files evi-
12 dence with the director that the association has

13 (1) a minimum of 100 members;

14 (2) been organized and maintained in good faith for pur-
15 poses other than that of obtaining insurance;

16 (3) been in active existence for at least one year; and

17 (4) a constitution and by-laws that require

18 (A) the association to hold regular meetings not less
19 than annually to further purposes of the members;

20 (B) except for credit unions, the association to
21 collect dues or solicit contributions from members; and

22 (C) the members to have voting privileges and repre-
23 sentation on the governing board and committees.

24 Sec. 21.53.100. DEFINITIONS. In this chapter,

25 (1) "applicant" means in the case of an individual long-
26 term disability insurance policy, the person who seeks to contract for
27 benefits, and in the case of a group long-term disability insurance
28 policy, the proposed certificate holder;

29 (2) "certificate" means a certificate issued under a group

1 long-term disability insurance policy that has been delivered or
2 issued for delivery in this state;

3 (3) "group long-term disability insurance" means a long-
4 term disability insurance policy that is delivered or issued for
5 delivery in this state and issued to

6 (A) one or more employers or labor organizations, or
7 to a trust or to the trustees of a fund established by one or
8 more employers or labor organizations, or a combination of them,
9 for employees or former employees or a combination of them, or
10 for members or former members or a combination of them, of the
11 labor organization;

12 (B) a professional, trade, or occupational association
13 for its members or former or retired members, or combination of
14 them, if the association is composed of individuals all of whom
15 are or were actively engaged in the same profession, trade, or
16 occupation, and has been maintained in good faith for purposes
17 other than obtaining insurance;

18 (C) an association or a trust or the trustee of a fund
19 established, created, or maintained for the benefit of members of
20 one or more associations;

21 (D) a group other than described in this paragraph if
22 the director determines that the issuance of the group policy is
23 not contrary to the best interest of the public, would result in
24 economies of acquisition or administration, and the benefits are
25 reasonable in relation to the premiums charged;

26 (4) "long-term disability insurance" means an individual or
27 group insurance policy or rider advertised, marketed, offered, or
28 designed to provide coverage for not less than 12 consecutive months
29 for each covered person on an expense incurred, indemnity, prepaid, or

1 other basis, for one or more necessary or medically necessary
2 diagnostic, preventive, therapeutic, rehabilitative, maintenance, or
3 personal care services that are provided in a setting other than an
4 acute care unit of a hospital; "long-term disability insurance" does
5 not include an insurance policy that is offered primarily to provide
6 basic Medicare supplement coverage, basic hospital expense coverage,
7 basic medical-surgical expense coverage, hospital confinement indem-
8 nity coverage, major medical expense coverage, disability income
9 protection coverage, catastrophic coverage, comprehensive coverage,
10 accident only coverage, specified disease or specified accident cover-
11 age, or limited benefit health coverage.

12 * Sec. 3. AS 21.53.040, enacted in sec. 2 of this Act, takes effect
13 July 1, 1990.

14 * Sec. 4. Except for AS 21.53.040, enacted in sec. 2 of this Act, this
15 Act takes effect July 1, 1989.