

**2740.1200 DUTIES OF INSURERS AND FRATERNALS.**

Subpart 1. **Exception to definition of accident and health insurance policy.** The exception provided by Minnesota Statutes, section 62E.02, subdivision 11, clause (4) shall apply with respect to hospital indemnity coverage sold by an insurer to an applicant who is, at the time of application for hospital indemnity coverage, covered by a qualified plan, notwithstanding the possibility that the applicant may subsequently terminate coverage under a qualified plan.

A. The exclusion of Minnesota Statutes, section 62E.02, subdivision 11, clause (4) shall also apply to a hospital indemnity coverage which is sold by an insurer to an applicant who is then currently covered by a health maintenance plan.

B. Insurers shall be entitled to conclusively rely upon the written statement of an applicant for hospital indemnity coverage that such applicant is, at the time of the application, covered by a qualified plan or a health maintenance plan.

Subp. 2. **Timing of required offer of a qualified plan or qualified Medicare supplement plan.** Timing of required offer of a qualified plan or qualified Medicare supplement plan is as follows:

A. The offer of each type of qualified plan (that is, a number 1, number 2, and number 3 qualified plan) that is required when an insurer or fraternal is offering an individual policy of accident and health insurance shall occur no later than the date of delivery of such policy to the applicant.

B. The offer of a qualified Medicare supplement plan that is required when an insurer or fraternal is offering a Medicare supplement policy shall occur no later than the date of delivery of such policy to the applicant.

C. The offer of each type of qualified plan (that is, a number 1, number 2, or number 3 qualified plan) required when an insurer or fraternal is offering a group policy of accident and health insurance shall occur no later than the date of delivery of such policy to the applicant.

D. "Each person who applies" and "applicant" for the purposes of Minnesota Statutes, section 62E.04 and this part shall be deemed to be only the individual making an initial application for an individual policy or in the case of a group policy, the corporation, partnership, proprietorship, association or other qualified entity making application for a group policy.

E. Minnesota Statutes, section 62E.04, subdivisions 1, 2, and 3 shall not be deemed to require an insurer or fraternal to offer a qualified plan or qualified Medicare supplement plan at the time a policy is subject to renewal.

Subp. 3. **No duty to offer particular category of insurance.** For the purposes of the act, individual accident and health insurance, group accident and health insurance, individual Medicare supplement plans, and group medicare supplement plans are recognized as separate and distinct categories of insurance. Nothing in Minnesota Statutes, section 62E.04, subdivisions 1, 2, and 3 shall be construed as requiring an insurer or fraternal to engage in the business of offering or issuing a particular category of accident and health insurance policy or Medicare supplement plan that it does not otherwise offer or issue in this state.

Subp. 4. **Duty to offer major medical coverage.** Each insurer and fraternal shall affirmatively offer, subject to its underwriting standards, coverage of major medical expenses to every applicant for a new unqualified policy at the time of application and annually thereafter to every holder of an unqualified policy of accident and health insurance renewed by the insurer or fraternal as required by Minnesota Statutes, section 62E.04, subdivision 4. "Affirmatively offer" shall mean written advice to the applicant for, or the holder of, an unqualified policy of accident and health insurance, of the availability of coverage for major medical expenses. Such written advice of the availability of the coverage for major medical expenses may be satisfied by a contractual provision in the unqualified policy that gives the insured the contractual right to apply to the insurer or fraternal for a new policy or a rider on an existing unqualified policy that provides coverage for 80 percent of the covered expenses for services listed in Minnesota Statutes, section 62E.06, subdivision 1 or the actuarial equivalence thereof subject to a \$5,000 deductible for out-of-pocket expenses, subject to the insurer's or fraternal's underwriting requirements.

Subp. 5. **Effect on foreign contracts.** No provision of the act shall be construed to require any insurer or fraternal to alter or amend any policy or contract issued outside the state of Minnesota.

Subp. 6. **Exclusion of certain foreign conversion policies.** The issuance of individual group conversion policies or contracts in Minnesota pursuant to Minnesota Statutes, section 62A.17 or 62E.16 shall not, in and of itself, constitute the transaction of accident and health insurance business by an insurer or fraternal that has relinquished prior authority to transact such business in Minnesota and that is not otherwise currently issuing policies or contracts in Minnesota.

Subp. 7. **Exceptions to duties for certain policies and contracts.** Exceptions to duties for certain policies and contracts are as follows:

A. The continuation in force of a policy or contract under which there is no unilateral right of the insurer or fraternal to cancel, nonrenew, amend or change the terms, conditions or premium rate of the policy or contract in any way, shall not be considered a

renewal for the purposes of Minnesota Statutes, section 62E.04 and part 2740.2100 if the policy or contract:

- (1) was issued prior to July 1, 1976; or
- (2) was designed solely to provide payments on a per diem, fixed indemnity or nonexpense incurred basis and was issued prior to June 3, 1977.

B. The issuance or renewal by an insurer or fraternal on or after June 3, 1977, of a policy or contract that is designed solely to provide payments on a per diem, fixed indemnity, or nonexpense incurred basis, shall not be subject to Minnesota Statutes, section 62E.04, except for policies and contracts sold by an insurer to provide payments on a hospital indemnity basis if such coverage is issued to an applicant who is not covered by a qualified plan or a health maintenance plan at the time of issue.

Subp. 8. **Sanction for failure to comply with duties of insurers and fraternal.** Any insurer or fraternal not in compliance with Minnesota Statutes, section 62E.04 shall cease and desist from transacting accident and health insurance business in the state of Minnesota. Nothing in this part shall prohibit such an insurer or fraternal no longer meeting the definition of insurer in Minnesota Statutes, section 62E.02, subdivision 10 or fraternal in Minnesota Statutes, section 62E.02, subdivision 19, from continuing to maintain in force any policies or contracts described in subpart 7, item A.

**Statutory Authority:** *MS s 62E.09*

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