

March 13, 2007

**S 736. REVISE LIFE AND HEALTH INSURANCE LAWS.** Filed 3/13/07. *AN ACT TO PROTECT CONSUMERS PURCHASING ANNUITY PRODUCTS; ADDRESS PORTABILITY IN ACCIDENT AND HEALTH AND LIFE INSURANCE; MAKE MINOR CHANGES IN THE LAWS ON MANAGED CARE EXTERNAL REVIEWS; CLARIFY DEFINITIONS IN LONG-TERM CARE INSURANCE; ADDRESS SMALL EMPLOYER CARRIER PLAN ELECTIONS; DEFINE "CRITICAL PERIOD CONVERSION RATION" FOR CREDIT INSURANCE; MAKE MISCELLANEOUS AMENDMENTS TO OTHER PROVISIONS RELATED TO LIFE AND HEALTH INSURANCE; AND MAKE TECHNICAL CORRECTIONS IN INSURANCE CODE REFERENCES TO THE TEACHERS' AND STATE EMPLOYEES' MAJOR MEDICAL PLAN.*

(1) Amends GS Chapter 58, Article 60, by adding a new Part 4 entitled "Suitability in Annuity Transactions Act," which sets forth standards and procedures governing recommendations made by an insurance producer or directly by an insurer to a consumer concerning the purchase of annuity products. The new act includes requirements that the insurance producer or insurer make reasonable attempts to obtain financial information about and consider a consumer's financial status, tax status, and investment objectives before recommending an annuity product, and that insurers, general agents, and independent agencies adopt systems to ensure compliance with these requirements. The act gives the Commissioner of Insurance authority to order corrective action with respect to any consumer harmed by an insurer or insurance producer's violation of the act.

(2) Enacts new GS 58-51-17, which requires general accident and health insurers to give beneficiaries credit for coverage they may have had under previous insurance policies to shorten the waiting period before pre-existing conditions are covered under a new policy. The provisions of new GS 58-51-17 generally track those of Title I of the federal Health Insurance Portability and Accountability Act. Also amends GS 58-51-15(a)(2)b. to conform the pre-existing condition notice required in all accident and health insurance plans to new GS 58-51-17 and to make clear that the kinds of insurance policies listed as exceptions in GS 58-68-25(b) are not subject to the creditable coverage for pre-existing conditions provisions of new GS 58-51-17. Enacts GS 58-68-30(c)(5) to require group health insurers to make creditable coverage determinations within a reasonable time period and to provide that an insurer may place no limit on the amount of time a beneficiary has to present evidence of creditable coverage.

(3) Enacts new GS 58-68-30(f)(3) to provide that special enrollees (persons allowed to enroll in a group health plan outside of the regular enrollment period because of the occurrence of certain qualifying events) are entitled to all of the benefit packages available to similarly situated individuals who enroll when first eligible.

(4) Amends GS 58-58-30 (part of the North Carolina Health Insurance and Portability Act) by adding new subsection (h) setting forth the required contents of a group health plan's General Notice of Pre-existing Condition Exclusion. Also adds new subsection (i) setting forth the required contents of a group health insurer's written determination of creditable coverage, new subsection (j) explicitly authorizing insurers to modify an initial determination of creditable coverage if it determines that an individual did not have creditable coverage, and new subsection (k) providing that required notices be in the form and content and delivered as specified by federal regulations.

(5) Enacts new GS 58-58-141 to allow for the portability of group life insurance coverage by prohibiting the use of health questions, underwriting, or eligibility requirements that pertain to health status when an individual insured elects to access a portability option through a group life insurance policy.

(6) Amends GS 58-50-82, dealing with expedited external reviews of denied general accident and health insurance claims, by substituting "one business day" wherever "one day" appears, and amends GS 50-58-95 by changing the Commissioner of Insurance's report to the Joint Legislative Health Care Oversight Committee concerning external reviews of denied claims from a semiannual to an annual report.

(7) Amends GS 58-55-20(4), defining *long-term care insurance* to include group and individual annuities and life insurance policies or riders that supplement or directly provide long-term care insurance; policies or riders that provide for payment of benefits based upon cognitive impairment or the loss of functional capacity; and qualified long-term care insurance contracts and other group and individual long-term care policies, regardless of the offeror. Makes

clear that long-term care insurance does not include basic Medicare supplements or basic health insurance policies, or life insurance policies that accelerate the death benefit for particular terminal illnesses or permanent institutional confinement or that provide the option of a lump-sum payment for those benefits where the availability of those options is not conditioned upon the receipt of long-term care.

(8) Enacts new GS 58-50-127, which requires small employer health insurance carriers to submit elections pursuant to GS 58-50-125(d) to the Commissioner.

(9) Amends Chapter 58, Article 57, dealing with the regulation of credit insurance by (1) enacting GS 58-57-5(4c), which defines *critical period conversion ratio* as the “ratio of the benefit value of the critical period divided by the benefit value of the full term”; and (2) enacting GS 58-57-35(d) to provide that premium rates for benefits provided on a critical period basis must be adjusted by a critical period conversion ratio that reduces the rates giving recognition to the shorter benefit period provided.

(10) Amends GS 58-3-35(a) and (b), which prohibit various types of insurers and insurance sponsors from making any conditions or stipulations in their contracts or policies concerning the court or jurisdiction within which an action may be brought or any time limits within which an action may be commenced other than those fixed by law. The amendments add continuing care providers, viatical settlement providers, and professional employer organizations to the list of types of insurers and sponsors covered by this prohibition.

(11) Amends GS 58-3-167(a)(1), which defines *health benefit plan* for the purposes of any law enacted by the General Assembly, by deleting the specific kinds of insurance plans excluded from the definition, and instead excluding any plan consisting of one or more of any combination of benefits described in GS 58-68-25(b), which are also the plans not subject to the new creditable coverage requirements introduced by this act.

(12) The act also contains a number of miscellaneous provisions, including (a) a technical correction to GS 58-10-35(c) on policyholder rights in the event of transfer of policies, (b) amendment of GS 58-56-51(a) to provide that the failure of a third-party administrator (TPA) to submit a complete renewal application results in the expiration of the TPA’s license as a matter of law, (c) amendment of GS 58-56-51(a) to provide that the failure of a TPA that is not required to be licensed to submit an annual verification of its status results in the expiration of the TPA’s registration as a matter of law, (d) repeal of GS 58-58-135(1)c. (the requirement that a group life insurance policy cover at least 10 employees), (e) technical corrections to GS 58-58-205(12), and (f) technical corrections to various sections of GS Chapter 58 to include in reference to the State Health Plan any optional plans or programs it offers.

The provisions on annuity transactions are effective January 1, 2008; the provisions on long-term care insurance are effective October 1, 2007; the remaining provisions are effective when they become law.

**Intro. by Dalton.**

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