

Atlantic Corporate Center  
2317 Route 34, Suite 2B  
Manasquan, NJ 08726  
732-201-4133  
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



PRESIDENT: Rep. Matt Lehman, IN  
VICE PRESIDENT: Asm. Ken Cooley, CA  
TREASURER: Asm. Kevin Cahill, NY  
SECRETARY: Rep. Joe Fischer, KY

IMMEDIATE PAST PRESIDENTS:  
Sen. Jason Rapert, AR  
Sen. Travis Holdman, IN

## National Council of Insurance Legislators (NCOIL)

### Short Term Limited Duration Insurance Model Act

---

*\*Sponsored by Rep. Martin Carbaugh (IN)*

*\*To be considered ~~discussed~~ during the NCOIL Health Insurance and Long Term Care Issues Committee on ~~September 26~~ ~~March 7<sup>th</sup>~~ ~~December~~ ~~July 11<sup>th</sup>~~, ~~2020~~ ~~19~~. Initial ~~draft~~ as of ~~August 25<sup>th</sup>~~ ~~February 5<sup>th</sup>~~ ~~November~~ ~~June 11<sup>th</sup>~~, ~~2020~~ ~~19~~ based on Indiana HB 1631 (signed into law on May 6, 2019)*

#### Table of Contents

|                       |  |
|-----------------------|--|
| Section 1.            | Title  |
| Section 2.            | Purpose  |
| <u>Section 3.</u>     | <u>Applicability</u>   |
| <del>Section 4.</del> | <del>Definitions</del>   |
| Section <u>5.</u>     | Renewal and Underwriting   |
| Section <u>6.</u>     | Coverage Requirements  |
| Section <u>7.</u>     | <del>Preferred Provider</del> <u>Network Based Plan</u> Requirements |
| Section <u>8.</u>     | Disclosure Requirements  |
| Section <u>9.</u>     | Tiering/Rating   |
| Section <u>10.</u>    | Discounts/Rebates/Out-of-Pocket Payment Modifications                |
| <u>Section 11.</u>    | <u>Rescission</u>  |
| Section <u>12.</u>    | Rules  |
| Section <u>13.</u>    | Effective Date   |

#### Section 1. Title

This Act shall be known as the “[State] Short Term Limited Duration Insurance Model Act.”

#### Section 2. Purpose

The purpose of this Act is to establish standards for the regulation of short term limited duration insurance plans that may be sold in [State].

Drafting Note: States are not required to offer short term limited duration insurance plans. For states that choose to offer such plans, this Model is intended to serve as a framework that can be adjusted accordingly to meet each state's needs.

### **Section 3. Applicability**

This Act shall apply to short term insurance plans delivered or issued for delivery to residents of this state, regardless of the situs of the contract or policy; however, nothing in this Section shall invalidate a plan validly delivered in another state.

### **Section 43. Definitions**

For purposes of this Act:

(a) “Covered Individual” means an individual entitled to coverage under a short term insurance plan

(b) “PPACA” means the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152)

(c) “Network based plan~~Preferred Provider Organization~~” means a type of health plan that contracts with healthcare providers to create a network of participating providers to provide healthcare services at a discounted cost to covered persons.

(~~d~~e) “Short Term Insurance Plan” means a policy of health insurance that:

(1) may be renewed for the greater of:

(i) thirty-six (36) months; or

(ii) the maximum period permitted under federal law;

(2) has a term of not more than three hundred sixty-four (364) days; and

(3) has an annual limit of at least two million dollars (\$2,000,000).

### **Section 54. Renewal and Underwriting**

(a) An insurer may require an applicant for coverage under a short term insurance plan to specify, before issuance of the short term insurance plan, the number of renewals the applicant elects.

(b) After issuance of a short term insurance plan, the insurer may not require underwriting of the short term insurance plan until:

- (1) all renewal periods elected under subsection (a) have ended; and
- (2) the covered individual enrolls in a new ~~renews the~~ short term insurance plan beyond the periods described in subdivision (1).

### **Section ~~65~~. Coverage Requirements**

A short term insurance plan must include coverage for the following:

- (1) Ambulatory patient services;
- (2) Hospitalization;
- (3) Emergency services; and
- (4) Laboratory services

### **Section ~~76~~. Preferred-Provider Network Based Plan Requirements**

(a) This section applies to an insurer that issues a short term insurance plan and undertakes a network based~~preferred provider~~ plan to render health care services to covered individuals under the short term insurance plan.

(b) An insurer described in subsection (a) shall ensure that the network based~~preferred provider~~ plan meets the following requirements:

- (1) The network based~~preferred provider~~ plan includes essential community providers in accordance with PPACA.
- (2) The network based~~preferred provider~~ plan is sufficient in number and types of providers (other than mental health and substance abuse treatment providers) to assure covered individuals' access to all health care services without unreasonable delay.
- (3) The network based~~preferred provider~~ plan is consistent with the network adequacy requirements that:
  - (i) apply to qualified health plan issuers under 45 C.F.R. §~~CFR~~ 156.230(a) and 45 C.F.R. §~~CFR~~ 156.230(b); and
  - (ii) are consistent with subdivisions (1) and (2).

## **Section 87. Disclosure Requirements**

(a) An insurer that issues a short term insurance plan shall disclose to an applicant, in bold, 12-point type, the following:

(1) That the short term insurance plan is not required to include coverage for all ten (10) of the essential health benefits required under the PPACA and specify the essential health benefits where no coverage is offered.

(2) That the short term insurance plan does not necessarily provide the full coverage that is required under PPACA.

(3) That the full coverage required by the PPACA may be secured during the next PPACA annual open enrollment, which typically commences on November 1 and can be found at <https://www.healthcare.gov/quick-guide/dates-and-deadlines/>

(b) An insurer shall obtain the signature of an applicant to whom the disclosures required by subsection (a) are made.

## **Section 98. Tiering/Rating**

An insurer shall not, as a condition of enrollment or continued enrollment in a short term insurance plan, require an individual to pay a premium or contribution greater than the premium or contribution for a similarly situated individual enrolled in the short term insurance plan on the basis of a health status related factor in relation to the individual or a dependent of the individual.

## **Section 109. Discounts/Rebates/Out-of-Pocket Payment Modifications**

This Act does not prevent an insurer from establishing a premium discount, a rebate, or out-of-pocket payment modifications in return for adherence to programs of health promotion and disease prevention.

## **Section 11. Rescission**

An insurer that issues a short term insurance plan shall not rescind such plan or coverage with respect to an enrollee once the enrollee is covered under such plan involved, except for an act or practice that constitutes fraud or intentional misrepresentation of material fact consistent with the requirements in Public Health Service Act § 2712 (42 U.S.C. § 300gg-12) and 45 C.F.R. § 147.128 or their successors.

## **Section 120. Rules**

The Insurance Commissioner may adopt rules regulating short term limited duration plans that are consistent with this Act.

**Section 131. Effective Date**

This Act shall take effect [\_\_\_\_\_].