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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO INSURANCE -- LIFETIME LIMITS

Introduced By: Representatives Kislak, Shekarchi, McNamara, Cassar, and Blazejewski

Date Introduced: February 26, 2020

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 27-18-73 of the General Laws in Chapter 27-18 entitled "Accident  
2 and Sickness Insurance Policies" is hereby amended to read as follows:

3           **27-18-73. Prohibition on annual and lifetime limits.**

4           (a) Annual limits.

5           (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
6 insurance carrier and a health benefit plan subject to the jurisdiction of the commissioner under this  
7 chapter may establish an annual limit on the dollar amount of benefits that are essential health  
8 benefits provided the restricted annual limit is not less than the following:

9           (A) For a plan or policy year beginning after September 22, 2011, but before September  
10 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

11           (B) For a plan or policy year beginning after September 22, 2012, but before January 1,  
12 2014 -- two million dollars (\$2,000,000).

13           (2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier  
14 and a health benefit plan shall not establish any annual limit on the dollar amount of essential health  
15 benefits for any individual, except:

16           (A) A health flexible spending arrangement, as defined in Section 106(c)(2)(i) of the  
17 Federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal  
18 Internal Revenue Code, and a health savings account, as defined in Section 223 of the federal  
19 Internal Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this

1 subsection.

2 (B) The provisions of this subsection shall not prevent a health insurance carrier and a  
3 health benefit plan from placing annual dollar limits for any individual on specific covered benefits  
4 that are not essential health benefits to the extent that such limits are otherwise permitted under  
5 applicable federal law or the laws and regulations of this state.

6 (3) In determining whether an individual has received benefits that meet or exceed the  
7 allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and a  
8 health benefit plan shall take into account only essential health benefits.

9 (b) Lifetime limits.

10 (1) A health insurance carrier and health benefit plan offering group or individual health  
11 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
12 for any individual.

13 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
14 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
15 benefits that are not essential health benefits, in accordance with federal laws and regulations.

16 (c)(1) The provisions of this section relating to lifetime limits apply to any health insurance  
17 carrier providing coverage under an individual or group health plan, including grandfathered health  
18 plans.

19 (2) The provisions of this section relating to annual limits apply to any health insurance  
20 carrier providing coverage under a group health plan, including grandfathered health plans, but the  
21 prohibition and limits on annual limits do not apply to grandfathered health plans providing  
22 individual health insurance coverage.

23 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for  
24 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
25 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
26 benefits for: (1) hospital confinement indemnity; (2) disability income; (3) accident only; (4) long  
27 term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8)  
28 sickness or bodily injury or death by accident or both; and (9) other limited benefit policies.

29 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
30 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
31 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
32 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
33 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
34 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~

1 ~~regulate health insurance under existing state law.~~

2 SECTION 2. Section 27-19-63 of the General Laws in Chapter 27-19 entitled "Nonprofit  
3 Hospital Service Corporations" is hereby amended to read as follows:

4 **27-19-63. Prohibition on annual and lifetime limits.**

5 (a) Annual limits.

6 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
7 insurance carrier and health benefit plan subject to the jurisdiction of the commissioner under this  
8 chapter may establish an annual limit on the dollar amount of benefits that are essential health  
9 benefits provided the restricted annual limit is not less than the following:

10 (A) For a plan or policy year beginning after September 22, 2011, but before September  
11 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

12 (B) For a plan or policy year beginning after September 22, 2012, but before January 1,  
13 2014 -- two million dollars (\$2,000,000).

14 (2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier  
15 and health benefit plan shall not establish any annual limit on the dollar amount of essential health  
16 benefits for any individual, except:

17 (A) A health flexible spending arrangement, as defined in Section 106(c)(2) of the federal  
18 Internal Revenue Code, a medical savings account, as defined in Section 220 of the federal Internal  
19 Revenue Code, and a health savings account, as defined in Section 223 of the federal Internal  
20 Revenue Code, are not subject to the requirements of subdivisions (1) and (2) of this subsection.

21 (B) The provisions of this subsection shall not prevent a health insurance carrier and health  
22 benefit plan from placing annual dollar limits for any individual on specific covered benefits that  
23 are not essential health benefits to the extent that such limits are otherwise permitted under  
24 applicable federal law or the laws and regulations of this state.

25 (3) In determining whether an individual has received benefits that meet or exceed the  
26 allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and  
27 health benefit plan shall take into account only essential health benefits.

28 (b) Lifetime limits.

29 (1) A health insurance carrier and health benefit plan offering group or individual health  
30 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
31 for any individual.

32 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
33 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
34 benefits that are not essential health benefits in accordance with federal laws and regulations.

1 (c)(1) The provisions of this section relating to lifetime limits apply to any health insurance  
2 carrier providing coverage under an individual or group health plan, including grandfathered health  
3 plans.

4 (2) The provisions of this section relating to annual limits apply to any health insurance  
5 carrier providing coverage under a group health plan, including grandfathered health plans, but the  
6 prohibition and limits on annual limits do not apply to grandfathered health plans providing  
7 individual health insurance coverage.

8 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for  
9 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
10 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
11 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)  
12 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
13 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
14 policies.

15 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
16 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
17 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
18 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
19 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
20 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
21 ~~regulate health insurance under existing state law.~~

22 SECTION 3. Section 27-20-59 of the General Laws in Chapter 27-20 entitled "Nonprofit  
23 Medical Service Corporations" is hereby amended to read as follows:

24 **27-20-59. Annual and lifetime limits.**

25 (a) Annual limits.

26 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
27 insurance carrier and health benefit plan subject to the jurisdiction of the commissioner under this  
28 chapter may establish an annual limit on the dollar amount of benefits that are essential health  
29 benefits provided the restricted annual limit is not less than the following:

30 (A) For a plan or policy year beginning after September 22, 2011, but before September  
31 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

32 (B) For a plan or policy year beginning after September 22, 2012, but before January 1,  
33 2014 -- two million dollars (\$2,000,000).

34 (2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier

1 and health benefit plan shall not establish any annual limit on the dollar amount of essential health  
2 benefits for any individual, except:

3 (A) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the federal  
4 Internal Revenue Code, a medical savings account, as defined in section 220 of the federal Internal  
5 Revenue Code, and a health savings account, as defined in section 223 of the federal Internal  
6 Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this subsection.

7 (B) The provisions of this subsection shall not prevent a health insurance carrier from  
8 placing annual dollar limits for any individual on specific covered benefits that are not essential  
9 health benefits to the extent that such limits are otherwise permitted under applicable federal law  
10 or the laws and regulations of this state.

11 (3) In determining whether an individual has received benefits that meet or exceed the  
12 allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier shall  
13 take into account only essential health benefits.

14 (b) Lifetime limits.

15 (1) A health insurance carrier and health benefit plan offering group or individual health  
16 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
17 for any individual.

18 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
19 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
20 benefits that are not essential health benefits, as designated pursuant to a state determination and in  
21 accordance with federal laws and regulations.

22 (c)(1) Except as provided in subdivision (2) of this subsection, this section applies to any  
23 health insurance carrier providing coverage under an individual or group health plan.

24 (2)(A) The prohibition on lifetime limits applies to grandfathered health plans.

25 (B) The prohibition and limits on annual limits apply to grandfathered health plans  
26 providing group health insurance coverage, but the prohibition and limits on annual limits do not  
27 apply to grandfathered health plans providing individual health insurance coverage.

28 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for  
29 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
30 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
31 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)  
32 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
33 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
34 policies.

1 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
2 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
3 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
4 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
5 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
6 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
7 ~~regulate health insurance under existing state law.~~

8 SECTION 4. Section 27-41-76 of the General Laws in Chapter 27-41 entitled "Health  
9 Maintenance Organizations" is hereby amended to read as follows:

10 **27-41-76. Prohibition on annual and lifetime limits.**

11 (a) Annual limits.

12 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
13 maintenance organization subject to the jurisdiction of the commissioner under this chapter may  
14 establish an annual limit on the dollar amount of benefits that are essential health benefits provided  
15 the restricted annual limit is not less than the following:

16 (A) For a plan or policy year beginning after September 22, 2011, but before September  
17 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

18 (B) For a plan or policy year beginning after September 22, 2012, but before January 1,  
19 2014 -- two million dollars (\$2,000,000).

20 (2) For plan or policy years beginning on or after January 1, 2014, a health maintenance  
21 organization shall not establish any annual limit on the dollar amount of essential health benefits  
22 for any individual, except:

23 (A) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the federal  
24 Internal Revenue Code, a medical savings account, as defined in section 220 of the federal Internal  
25 Revenue Code, and a health savings account, as defined in section 223 of the federal Internal  
26 Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this subsection.

27 (B) The provisions of this subsection shall not prevent a health maintenance organization  
28 from placing annual dollar limits for any individual on specific covered benefits that are not  
29 essential health benefits to the extent that such limits are otherwise permitted under applicable  
30 federal law or the laws and regulations of this state.

31 (3) In determining whether an individual has received benefits that meet or exceed the  
32 allowable limits, as provided in subdivision (1) of this subsection, a health maintenance  
33 organization shall take into account only essential health benefits.

34 (b) Lifetime limits.

1 (1) A health insurance carrier and health benefit plan offering group or individual health  
2 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
3 for any individual.

4 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
5 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
6 benefits that are not essential health benefits in accordance with federal laws and regulations.

7 (c)(1) The provisions of this section relating to lifetime limits apply to any health  
8 maintenance organization or health insurance carrier providing coverage under an individual or  
9 group health plan, including grandfathered health plans.

10 (2) The provisions of this section relating to annual limits apply to any health maintenance  
11 organization or health insurance carrier providing coverage under a group health plan, including  
12 grandfathered health plans, but the prohibition and limits on annual limits do not apply to  
13 grandfathered health plans providing individual health insurance coverage.

14 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for  
15 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
16 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
17 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)  
18 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
19 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
20 policies.

21 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
22 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
23 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
24 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
25 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
26 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
27 ~~regulate health insurance under existing state law.~~

28 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE -- LIFETIME LIMITS

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1           This act would revoke the authority of the health insurance commissioner's ability to  
2 enforce a ruling of the federal government or federal court that revokes the prohibition on limits on  
3 health insurance.

4           This act would take effect upon passage.

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