

2024 -- H 7091 SUBSTITUTE A

LC003617/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES --  
LIFETIME LIMITS

Introduced By: Representatives Kislak, Spears, Speakman, Donovan, Giraldo, Stewart,  
Ajello, Potter, Fogarty, and Cotter

Date Introduced: January 10, 2024

Referred To: House Health & Human Services

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)~~(i) 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)~~(ii) 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)~~(i) 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

1 Internal Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this  
2 subsection.

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

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

10 (b) Lifetime limits.

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

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

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

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

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

30 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
31 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
32 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
33 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
34 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~

~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to regulate health insurance under existing state law.~~

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

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

(a) Annual limits.

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

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

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

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

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

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

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

(b) Lifetime limits.

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

(2) Notwithstanding subsection (b)(1), a health insurance carrier and health benefit plan is not prohibited from placing lifetime dollar limits for any individual on specific covered benefits

1 that are not essential health benefits in accordance with federal laws and regulations.

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

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

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

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

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

25 **27-20-59. Annual and lifetime limits.**

26 (a) **Annual limits.**

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

31 (i) For a plan or policy year beginning after September 22, 2011, but before September 23,  
32 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and

33 (ii) For a plan or policy year beginning after September 22, 2012, but before January 1,  
34 2014 — two million dollars (\$2,000,000).

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

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

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

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

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

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

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

25 (2)(i) The prohibition on lifetime limits applies to grandfathered health plans.

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

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

1 policies.

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

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

11 **27-41-76. Prohibition on annual and lifetime limits.**

12 (a) Annual limits.

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

17 (i) For a plan or policy year beginning after September 22, 2011, but before September 23,  
18 2012 — one million two hundred fifty thousand dollars (\$1,250,000); and

19 (ii) For a plan or policy year beginning after September 22, 2012, but before January 1,  
20 2014 — two million dollars (\$2,000,000).

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

24 (i) A health flexible spending arrangement, as defined in 26 U.S.C. § 106(c)(2), a medical  
25 savings account, as defined in 26 U.S.C. § 220, and a health savings account, as defined in 26  
26 U.S.C. § 223, are not subject to the requirements of subsections (a)(1) and (a)(2) of this section.

27 (ii) The provisions of this subsection (a) shall not prevent a health maintenance  
28 organization from placing annual dollar limits for any individual on specific covered benefits that  
29 are not essential health benefits to the extent that such limits are otherwise permitted under  
30 applicable 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 subsection (a)(1) of this section, a health maintenance organization  
33 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 subsection (b)(1), a health insurance carrier and health benefit plan is  
5 not prohibited from placing lifetime dollar limits for any individual on specific covered benefits  
6 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. Section 42-14.5-3.1 of the General Laws in Chapter 42-14.5 entitled "The  
29 Rhode Island Health Care Reform Act of 2004 — Health Insurance Oversight" is hereby amended  
30 to read as follows:

31 **42-14.5-3.1. Reporting changes in federal law.**

32 If any provision of the federal Patient Protection and Affordable Care Act and/or its  
33 implementing regulations relating to coverage for essential health benefits or preventive services  
34 are determined by the commissioner to have been repealed or to have been declared invalid or

1 nullified by the final judgment of a federal court applicable to the state or by executive or  
2 administrative action, which shall be deemed to include an action of the executive or judicial branch  
3 that nullifies the effectiveness of the provision, such that the commissioner intends to take action  
4 pursuant to the authority conferred on the commissioner pursuant to the authority granted by § 27-  
5 18.5-11, § 27-18.6-3.2, or § 27-50-18, or if any provision of the federal Patient Protection and  
6 Affordable Care Act and/or its implementing regulations relating to annual and/or lifetime limits is  
7 similarly determined by the commissioner to no longer be in effect, the commissioner shall report  
8 to the general assembly as soon as possible to describe the impact of the change and to make  
9 recommendations regarding consumer protections, consumer choices, and stabilization and  
10 affordability of the Rhode Island insurance market.

11 SECTION 6. 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 -- ACCIDENT AND SICKNESS INSURANCE POLICIES --  
LIFETIME LIMITS

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1           This act would repeal the authority of the health insurance commissioner to enforce any  
2 act of the United States Congress or a federal court decision that invalidates or repeals the  
3 prohibition of annual and lifetime limits on health insurance contained in the federal Patient  
4 Protection and Affordable Care Act as it pertains to this state. This act also provides that if any  
5 provision of the Federal Patient Protection and Affordable Care Act annual and/or lifetime limits  
6 are determined to no longer be in effect then the commissioner shall report to the general assembly  
7 as soon as possible the impact of the change.

8           This act would take effect upon passage.

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