First Consulting

Important News

A Quick Review - Proposed Changes to Short-Term Limited Duration and Fixed Indemnity Insurance

If you sell or are insured under short-term limited duration health plans or excepted limited benefit policies, such as Hospital Indemnity, you will want to know about a proposed rule published on July 13, 2023 by the Departments of Labor, Treasury and Health and Human Services.

Changes are being proposed to help eliminate confusion in the marketplace between the following types of plans:

Affordable Care Act (ACA) - comprehensive health care coverage.

Proposed changes: None

Short-Term Limited Duration Insurance (STLDI) - temporary health coverage with a current initial term length of less than 12 months and maximum total duration of 36 months, including renewals and extensions. It is designed to fill gaps in coverage when an individual is transitioning from one source of health coverage to another and does not contain the protections and requirements for comprehensive coverage under ACA. For example, unlike ACA policies, STLDI is not required to follow guidelines on (1) health status; (2) pre-existing conditions; and (3) lifetime or annual dollar limits on essential health benefits.

Proposed changes:

- Limit the term of coverage to 3 months and maximum total duration to 4 months, including renewals and extensions. The Feds opinion is that these changes would allow it to return to its traditional purpose of bridging short gaps in comprehensive coverage and reduce the financial risk of having this limited coverage as a long-term alternative to comprehensive health insurance.
- An individual could enroll in consecutive STLDI contracts that exceed 4 months only if the contracts effective within a 12-month period are sold by different carriers and are consistent with state law.

Fixed Indemnity Insurance - provides cash payments per period of illness or hospitalization and is designed to provide a source of income replacement and not full medical coverage.

Proposed Changes:

- Fixed indemnity excepted benefits policies would be prohibited from paying benefits on a per-service basis. The Feds view is that this will limit carriers from designing complex, fee-for-service style indemnity plans that resemble comprehensive health coverage without being required to provide the same consumer protections.

- New consumer notices for indemnity coverage would be required in marketing, application and enrollment materials.
- Payments from employer provided fixed indemnity health insurance plans, including specified disease or illness, *will not* be excluded from a taxpayer's gross income if the amounts are paid without regard to the actual amount of any incurred medical expenses.
- In addition, to be considered excepted benefits coverage, hospital indemnity and other fixed indemnity insurance must provide benefits on an independent, non-coordinated basis. When employers offer fixed indemnity insurance as an alternative to comprehensive employer-provided health coverage, it is considered to be coordinating with health insurance whether language is in the policy or not.

These Federal Departments are specifically requesting input as to the marketing of specified disease or illness policies (example – cancer only) and the prevalence of level funded health plans. Electronic comments on this rule can be submitted to *https://www.regulations.gov* by September 11, 2023 (follow the "Submit a comment" instructions).

The full proposed rule can be found at https://www.federalregister.gov/documents/2023/07/12/2023-14238/short-term-limited-duration-insurance-independent-noncoordinated-excepted-benefits-coverage

We will continue to monitor the progress of this proposed rule and its potential impact on carriers and producers.

Kathy OFarrell, Regulatory Affairs Manager
First Consulting & Administration
816-391-2735
kathy.ofarrell@firstconsulting.com

Sean Cox, President
First Consulting & Administration
816-391-2737
sean.cox@firstconsulting.com

First Consulting is an Insurance Compliance Consulting Firm, found in 1969. First Consulting assists carriers, and other entities, with: developing and gaining state approval of new and updated products; advertising compliance; carrier and TPA licensing; regulatory monitoring; and on-line compliance training.