

Act No. 325
Public Acts of 1996
Approved by the Governor
June 25, 1996
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June 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 1023

AN ACT to amend section 3 of Act No. 64 of the Public Acts of 1984, entitled "An act to provide for the coordination of certain benefits; to prescribe the powers and duties of certain state departments and agencies; and to provide for the promulgation of rules," being section 550.253 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 3 of Act No. 64 of the Public Acts of 1984, being section 550.253 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 3. (1) Any policy or certificate delivered or issued for delivery in this state in connection with a group disability benefit plan may contain provisions coordinating the benefits or services that would otherwise be provided to a covered person. Any such policy or certificate that contains a coordination of benefits provision shall provide that benefits will be payable as follows when coordinating with another policy or certificate that also has a coordination of benefits provision:

(a) The benefits of a policy or certificate that covers the person on whose expenses the claim is based other than as a dependent shall be determined before the benefits of a policy or certificate that covers the person as a dependent. However, if the person is a medicare beneficiary and as a result of the provisions of title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to 1395w-2, 1395w-4 to 1395yy, and 1395bbb to 1395ccc, medicare is secondary to the policy or certificate covering the person as a dependent and primary to the policy or certificate covering the person as other than a dependent, then the order of benefits is reversed and the policy or certificate covering the person as other than a dependent is secondary and the policy or certificate covering the person as a dependent is primary.

(b) Except as otherwise provided in subdivision (c), if 2 policies or certificates cover a person on whose expenses the claim is based as a dependent, the benefits of the policy or certificate of the person whose birthday anniversary occurs earlier in the calendar year shall be determined before the benefits of the policy or certificate of the person whose birthday anniversary occurs later in the calendar year. If the birthday anniversaries are identical, the benefits of a policy or certificate that has covered the person on whose expenses the claim is based for the longer period of time shall be determined before the benefits of a policy or certificate that has covered the person for the shorter period of time. However, if either policy or certificate is lawfully issued in another state and does not have the coordination of benefits procedure regarding dependents based on birthday anniversaries as provided in this subdivision, and as a result each policy or certificate determines its benefits after the other, the coordination of benefits procedure set forth in the policy or certificate that does not have the coordination of benefits procedure based on birthday anniversaries shall determine the order of benefits.

(c) For a person for whom claim is made as a dependent minor child, benefits shall be determined according to the following:

(i) Except as provided in subparagraph (iii), if the parents of the minor child are legally separated or divorced, and the parent with custody of the minor child has not remarried, the benefits of a policy or certificate that covers the minor

child as a dependent of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the noncustodial parent.

(ii) Except as provided in subparagraph (iii), if the parents of the minor child are divorced, and the parent with custody of the child has remarried, the benefits of a policy or certificate that covers the minor child as a dependent of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the spouse of the custodial parent, and the benefits of a policy or certificate that covers the minor child as a dependent of the spouse of the custodial parent shall be determined before the benefits of a policy or certificate that covers the minor child as a dependent of the noncustodial parent.

(iii) If the parents of the minor child are divorced, and the decree of divorce places financial responsibility for the medical, dental, or other health care expenses of the minor child upon either the custodial or the noncustodial parent, the benefits of a policy or certificate that covers the minor child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other policy or certificate that covers the minor child as a dependent.

(d) If subdivisions (a), (b), and (c) do not establish an order of benefit determination, the benefits of a policy or certificate in connection with a group disability benefit plan that has covered the person on whose expenses the claim is based for the longer period of time shall be determined before the benefits of a policy or certificate that has covered the person for the shorter period of time, subject to the following:

(i) The benefits of a policy or certificate covering the person on whose expenses the claim is based as a laid-off or retired employee or as a dependent of a laid-off or retired employee shall be determined after the benefits of any other policy or certificate covering the person other than as a laid-off or retired employee or a dependent of a laid-off or retired employee.

(ii) Subparagraph (i) does not apply if either policy or certificate is lawfully issued in another state and does not have a provision regarding laid-off or retired employees and, as a result, each policy or certificate determines its benefits after the other.

(e) If a person whose coverage is provided under a right of continuation pursuant to federal or state law is also covered under another policy or certificate, the policy or certificate covering the person as an employee, member, subscriber, enrollee, or retiree, or as that person's dependent, is primary and the continuation coverage is secondary.

(2) A policy or certificate that contains a coordination of benefits provision shall provide that benefits under the policy or certificate shall not be reduced or otherwise limited because of the existence of another nongroup contract that is issued as a hospital indemnity, surgical indemnity, specified disease, or other policy of disability insurance as defined in section 3400 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3400 of the Michigan Compiled Laws.

(3) A health maintenance organization is not required to pay claims or coordinate benefits for services that are not provided or authorized by the health maintenance organization and that are not benefits under the health maintenance contract.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.