

SUBSTITUTE FOR
HOUSE BILL NO. 4934

A bill to amend 1984 PA 64, entitled
"The coordination of benefits act,"
by amending the title and sections 2, 3, and 4 (MCL 550.252,
550.253, and 550.254), section 3 as amended by 1996 PA 325; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for ~~the coordination of certain~~ **A UNIFORM**
ORDER OF benefits **DETERMINATION UNDER WHICH PLANS PAY CLAIMS**; to
prescribe the powers and duties of certain state ~~departments and~~
~~agencies~~; **GOVERNMENTAL OFFICERS AND ENTITIES**; and to ~~provide for~~
REQUIRE the promulgation of rules.

Sec. 2. (1) As used in this act:

~~(a) "Certificate" means any of the following:~~

1 ~~—— (i) A certificate issued by a health care corporation in~~
2 ~~connection with a group disability benefit plan under which health~~
3 ~~or dental care benefits are provided to a group of subscribers.~~

4 ~~—— (ii) A contract issued by a medical care corporation in~~
5 ~~connection with a group disability benefit plan under which health~~
6 ~~or dental care benefits are provided to a group of subscribers.~~

7 ~~—— (iii) A contract issued by a hospital service corporation in~~
8 ~~connection with a group disability benefit plan under which health~~
9 ~~or dental care benefits are provided to a group of subscribers.~~

10 ~~—— (iv) A health maintenance contract issued by a health~~
11 ~~maintenance organization in connection with a group disability~~
12 ~~benefit plan under which health maintenance services are provided,~~
13 ~~either directly or through contracts with affiliated providers, to~~
14 ~~a group of subscribers.~~

15 ~~—— (v) A contract issued by a dental care corporation in~~
16 ~~connection with a group disability benefit plan under which dental~~
17 ~~care benefits are provided to a group of subscribers.~~

18 **(A) "ALLOWABLE EXPENSE" MEANS A HEALTH CARE EXPENSE, INCLUDING**
19 **COINSURANCE OR COPAYMENTS AND WITHOUT REDUCTION FOR ANY APPLICABLE**
20 **DEDUCTIBLE, THAT IS COVERED IN FULL OR IN PART BY ANY OF THE PLANS**
21 **COVERING THE INDIVIDUAL. THE AMOUNT OF A REDUCTION MAY BE EXCLUDED**
22 **FROM ALLOWABLE EXPENSE IF A COVERED PERSON'S BENEFITS ARE REDUCED**
23 **UNDER A PRIMARY PLAN FOR EITHER OF THE FOLLOWING REASONS:**

24 **(i) BECAUSE THE COVERED PERSON DOES NOT COMPLY WITH THE PLAN**
25 **PROVISIONS CONCERNING SECOND SURGICAL OPINIONS OR PRECERTIFICATION**
26 **OF ADMISSIONS OR SERVICES.**

27 **(ii) BECAUSE THE COVERED PERSON HAS A LOWER BENEFIT BECAUSE**

1 THE COVERED PERSON DID NOT USE A PREFERRED PROVIDER.

2 (B) "CLAIM" MEANS A REQUEST THAT BENEFITS OF A PLAN BE
3 PROVIDED OR PAID. THE BENEFITS CLAIMED MAY BE IN THE FORM OF ANY OF
4 THE FOLLOWING:

5 (i) SERVICES INCLUDING SUPPLIES.

6 (ii) PAYMENT FOR ALL OR A PORTION OF THE EXPENSES INCURRED.

7 (iii) A COMBINATION OF SUBPARAGRAPHS (i) AND (ii).

8 (iv) AN INDEMNIFICATION.

9 (C) "CLOSED PANEL PLAN" MEANS A PLAN THAT PROVIDES HEALTH
10 BENEFITS TO COVERED PERSONS PRIMARILY IN THE FORM OF SERVICES
11 THROUGH A PANEL OF PROVIDERS THAT HAVE CONTRACTED WITH OR ARE
12 EMPLOYED BY THE INSURER THAT ISSUES THE PLAN AND THAT EXCLUDES
13 BENEFITS FOR SERVICES PROVIDED BY OTHER PROVIDERS, EXCEPT IN CASES
14 OF EMERGENCY OR REFERRAL BY A PANEL MEMBER.

15 (D) "COORDINATION OF BENEFITS" OR "COB" MEANS A PROVISION THAT
16 ESTABLISHES AN ORDER IN WHICH INSURERS PAY CLAIMS, AND THAT PERMITS
17 BENEFITS PAID UNDER SECONDARY PLANS TO BE REDUCED SO THAT THE
18 COMBINED BENEFITS PAID UNDER ALL PLANS DO NOT EXCEED THE TOTAL
19 ALLOWABLE EXPENSES.

20 (E) "CUSTODIAL PARENT" MEANS ANY OF THE FOLLOWING:

21 (i) THE PARENT AWARDED CUSTODY OF A CHILD BY A COURT ORDER OR
22 JUDGMENT.

23 (ii) IN THE ABSENCE OF A COURT ORDER OR JUDGMENT, THE PARENT
24 WITH WHOM THE CHILD RESIDES MORE THAN ONE HALF OF THE CALENDAR YEAR
25 WITHOUT REGARD TO ANY TEMPORARY VISITATION.

26 (F) ~~(b)~~ "Dental care corporation" means a NONPROFIT dental
27 care corporation incorporated under ~~Act No. 125 of the Public Acts~~

1 of 1963, being sections 550.351 to 550.373 of the Michigan Compiled
2 Laws. 1963 PA 125, MCL 550.351 TO 550.373.

3 ~~—— (c) "Group disability benefit plan" means a program making~~
4 ~~health or dental care benefits available to covered persons because~~
5 ~~of the covered person's membership in or connection with a~~
6 ~~particular organization or group, which benefits are provided~~
7 ~~through 1 or more policies or certificates.~~

8 ~~—— (d) "Health care corporation" means a health care corporation~~
9 ~~incorporated under the nonprofit health care corporation reform~~
10 ~~act, Act No. 350 of the Public Acts of 1980, being sections~~
11 ~~550.1101 to 550.1704 of the Michigan Compiled Laws.~~

12 (G) ~~(e)~~ "Health maintenance organization" means a health
13 maintenance organization licensed under article 17 of the public
14 health code, Act No. 368 of the Public Acts of 1978, being sections
15 333.20101 to 333.22181 of the Michigan Compiled Laws. **THAT TERM AS**
16 **DEFINED IN SECTION 3501 OF THE INSURANCE CODE OF 1956, 1956 PA 218,**
17 **MCL 500.3501.**

18 ~~—— (f) "Hospital service corporation" means a hospital service~~
19 ~~corporation incorporated under Act No. 109 of the Public Acts of~~
20 ~~1939, being sections 550.501 to 550.517 of the Michigan Compiled~~
21 ~~Laws.~~

22 (H) ~~(g)~~ "Insurer" means an insurer **THAT TERM** as defined in
23 section 106 of the insurance code of 1956, Act No. 218 of the
24 Public Acts of 1956, being section 500.106 of the Michigan Compiled
25 Laws. 1956 PA 218, MCL 500.106.

26 ~~—— (h) "Medical care corporation" means a medical care~~
27 ~~corporation incorporated under Act No. 108 of the Public Acts of~~

1 ~~1939, being sections 550.301 to 550.316 of the Michigan Compiled~~
2 ~~Laws.~~

3 ~~— (i) "Policy" means a group disability insurance policy issued~~
4 ~~by an insurer in connection with a group disability benefit plan~~
5 ~~which provides for hospital, medical, surgical, dental, or sick~~
6 ~~care benefits.~~

7 (I) SUBJECT TO SUBSECTIONS (2) AND (3), "PLAN" MEANS A FORM OF
8 HEALTH CARE COVERAGE WITH WHICH COORDINATION IS ALLOWED. SEPARATE
9 PARTS OF A PLAN FOR MEMBERS OF A GROUP THAT ARE PROVIDED THROUGH
10 ALTERNATIVE CONTRACTS AND THAT ARE INTENDED TO BE PART OF A
11 COORDINATED PACKAGE OF BENEFITS ARE CONSIDERED 1 PLAN AND THERE IS
12 NOT COB AMONG THE SEPARATE PARTS OF THE PLAN. IF BENEFITS ARE
13 COORDINATED UNDER A PLAN, THE CONTRACT MUST STATE THE TYPES OF
14 COVERAGE THAT WILL BE CONSIDERED IN APPLYING THE COB PROVISION OF
15 THE CONTRACT. WHETHER THE CONTRACT USES THE TERM "PLAN" OR SOME
16 OTHER TERM SUCH AS "PROGRAM", THE CONTRACTUAL DEFINITION MUST NOT
17 BE BROADER THAN THE DEFINITION OF "PLAN" IN THIS SUBDIVISION. PLAN
18 INCLUDES ANY OF THE FOLLOWING:

19 (i) GROUP AND NONGROUP INSURANCE CONTRACTS AND SUBSCRIBER
20 CONTRACTS.

21 (ii) UNINSURED ARRANGEMENTS OF GROUP OR GROUP-TYPE COVERAGE.

22 (iii) GROUP AND NONGROUP COVERAGE THROUGH CLOSED PANEL PLANS.

23 (iv) GROUP-TYPE CONTRACTS.

24 (v) THE MEDICAL CARE COMPONENTS OF LONG-TERM CARE CONTRACTS,
25 INCLUDING SKILLED NURSING CARE.

26 (vi) MEDICARE OR OTHER GOVERNMENTAL BENEFITS, AS PERMITTED BY
27 LAW, EXCEPT AS PROVIDED IN SUBSECTION (2) (G). PLAN UNDER THIS

1 SUBDIVISION MAY BE LIMITED TO THE HOSPITAL, MEDICAL, AND SURGICAL
2 BENEFITS OF THE GOVERNMENTAL PROGRAM.

3 (vii) GROUP AND NONGROUP INSURANCE CONTRACTS AND SUBSCRIBER
4 CONTRACTS THAT PAY OR REIMBURSE FOR THE COST OF DENTAL CARE.

5 (viii) GROUP AND NONGROUP DENTAL INSURANCE CONTRACTS AND
6 SUBSCRIBER CONTRACTS ISSUED BY A DENTAL CARE CORPORATION.

7 (J) "PRIMARY PLAN" MEANS A PLAN UNDER WHICH BENEFITS FOR AN
8 INDIVIDUAL'S HEALTH CARE COVERAGE ARE DETERMINED WITHOUT TAKING
9 INTO CONSIDERATION THE EXISTENCE OF ANY OTHER PLAN. A PLAN IS A
10 PRIMARY PLAN UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

11 (i) THE PLAN EITHER HAS NO ORDER OF BENEFIT DETERMINATION
12 RULES OR ITS RULES DIFFER FROM THOSE AUTHORIZED UNDER THIS ACT.

13 (ii) ALL PLANS THAT COVER THE INDIVIDUAL USE THE ORDER OF
14 BENEFIT DETERMINATION RULES REQUIRED UNDER THIS ACT AND, UNDER
15 THOSE RULES, THE BENEFITS PAYABLE UNDER THE PLAN ARE DETERMINED TO
16 BE PAYABLE FIRST.

17 (K) "SECONDARY PLAN" MEANS A PLAN THAT IS NOT A PRIMARY PLAN.

18 (2) FOR PURPOSES OF THIS ACT, PLAN DOES NOT INCLUDE ANY OF THE
19 FOLLOWING:

20 (A) HOSPITAL INDEMNITY COVERAGE BENEFITS OR OTHER FIXED
21 INDEMNITY COVERAGE.

22 (B) ACCIDENT-ONLY COVERAGE OR DISABILITY INCOME INSURANCE.

23 (C) SPECIFIED DISEASE OR SPECIFIED ACCIDENT COVERAGE.

24 (D) SCHOOL-ACCIDENT-TYPE COVERAGES THAT COVER STUDENTS FOR
25 ACCIDENTS ONLY, INCLUDING ATHLETIC INJURIES, EITHER ON A 24-HOUR
26 BASIS OR ON A TO-AND-FROM-SCHOOL BASIS.

27 (E) BENEFITS PROVIDED IN LONG-TERM CARE INSURANCE POLICIES FOR

1 NONMEDICAL SERVICES, INCLUDING PERSONAL CARE, ADULT DAY CARE,
2 HOMEMAKER SERVICES, ASSISTANCE WITH ACTIVITIES OF DAILY LIVING,
3 RESPITE CARE, AND CUSTODIAL CARE, OR FOR CONTRACTS THAT PAY A FIXED
4 DAILY BENEFIT WITHOUT REGARD TO EXPENSES INCURRED OR THE RECEIPT OF
5 SERVICES.

6 (F) MEDICARE SUPPLEMENT PLANS.

7 (G) A STATE PLAN UNDER MEDICAID.

8 (H) A GOVERNMENTAL PLAN THAT, BY LAW, PROVIDES BENEFITS THAT
9 ARE IN EXCESS OF THOSE OF ANY PRIVATE INSURANCE PLAN OR OTHER
10 NONGOVERNMENTAL PLAN.

11 (3) FOR PURPOSES OF THIS ACT, PLANS ARE ISSUED BY ANY OF THE
12 FOLLOWING:

13 (A) A HEALTH MAINTENANCE ORGANIZATION UNDER WHICH HEALTH
14 SERVICES ARE PROVIDED, EITHER DIRECTLY OR THROUGH CONTRACTS WITH
15 AFFILIATED PROVIDERS, TO INDIVIDUAL OR GROUP ENROLLEES.

16 (B) A DENTAL CARE CORPORATION UNDER WHICH DENTAL BENEFITS ARE
17 PROVIDED TO INDIVIDUAL OR GROUP ENROLLEES.

18 (C) AN INSURER THAT PROVIDES FOR HOSPITAL, MEDICAL, SURGICAL,
19 DENTAL, OR SICK CARE BENEFITS.

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

1 ~~_____ (a) The benefits of a policy or certificate~~ IF AN INDIVIDUAL
2 IS COVERED BY 2 OR MORE PLANS, THE RULES FOR DETERMINING THE ORDER
3 OF BENEFIT PAYMENTS ARE AS FOLLOWS:

4 (A) THE INSURER THAT ISSUES THE PRIMARY PLAN SHALL PAY OR
5 PROVIDE BENEFITS AS IF A SECONDARY PLAN DOES NOT EXIST.

6 (B) IF THE INDIVIDUAL IS COVERED BY MORE THAN 1 SECONDARY
7 PLAN, THE ORDER OF BENEFIT DETERMINATION RULES UNDER THIS ACT
8 DETERMINE THE ORDER UNDER WHICH SECONDARY PLAN BENEFITS ARE
9 DETERMINED IN RELATION TO EACH OTHER. AN INSURER THAT ISSUES A
10 SECONDARY PLAN SHALL TAKE INTO CONSIDERATION THE BENEFITS OF THE
11 PRIMARY PLAN AND THE BENEFITS OF ANY OTHER PLAN THAT ARE, UNDER
12 THIS ACT, DETERMINED TO BE PAYABLE BEFORE THOSE OF THE SECONDARY
13 PLAN.

14 (C) A PLAN THAT DOES NOT CONTAIN ORDER OF BENEFIT
15 DETERMINATION PROVISIONS THAT ARE CONSISTENT WITH THIS ACT IS
16 ALWAYS THE PRIMARY PLAN UNLESS THE PROVISIONS OF BOTH PLANS,
17 REGARDLESS OF THIS SUBDIVISION, STATE THAT THE COMPLYING PLAN IS
18 PRIMARY.

19 (D) IF THE PRIMARY PLAN IS A CLOSED PANEL PLAN AND THE
20 SECONDARY PLAN IS NOT A CLOSED PANEL PLAN, THE INSURER THAT ISSUES
21 THE SECONDARY PLAN SHALL PAY OR PROVIDE BENEFITS AS IF IT WERE THE
22 PRIMARY PLAN IF A COVERED PERSON USES A NONPANEL PROVIDER, EXCEPT
23 FOR EMERGENCY SERVICES OR AUTHORIZED REFERRALS THAT ARE PAID OR
24 PROVIDED BY THE INSURER THAT ISSUED THE PRIMARY PLAN.

25 (2) THE ORDER IN WHICH BENEFITS ARE PAYABLE BY INSURERS THAT
26 ISSUE PLANS ARE DETERMINED BY USING THE FIRST OF THE FOLLOWING
27 RULES THAT APPLIES:

1 (A) THE NONDEPENDENT/DEPENDENT RULE. IF THE INDIVIDUAL IS NOT
2 A DEPENDENT BUT IS AN EMPLOYEE, MEMBER, SUBSCRIBER, POLICYHOLDER,
3 OR RETIREE UNDER 1 PLAN AND IS A DEPENDENT UNDER ANOTHER PLAN, THE
4 ORDER OF PAYMENT OF BENEFITS UNDER THE PLANS IS DETERMINED AS
5 FOLLOWS:

6 (i) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (ii), THE
7 PLAN that covers the ~~person on whose expenses the claim is based~~
8 INDIVIDUAL other than as a dependent ~~shall be determined before the~~
9 ~~benefits of a policy or certificate~~ IS THE PRIMARY PLAN AND THE
10 PLAN that covers the ~~person~~ INDIVIDUAL as a dependent IS THE
11 SECONDARY PLAN.

12 (ii) ~~However, if~~ IF the ~~person~~ INDIVIDUAL is a medicare
13 MEDICARE beneficiary and, as a result of the provisions of title
14 XVIII of the social security act, ~~chapter 531, 49 Stat. 620, 42~~
15 ~~U.S.C. 1395 to 1395b, 1395b-2, 1395c to 1395i, 1395i-2 to 1395i-4,~~
16 ~~1395j to 1395t, 1395u to 1395w-2, 1395w-4 to 1395yy, and 1395bbb to~~
17 ~~1395ccc, medicare 42 USC 1395 TO 1395///, MEDICARE~~ is secondary to
18 the ~~policy or certificate~~ PLAN covering the ~~person~~ INDIVIDUAL as a
19 dependent and primary to the ~~policy or certificate~~ PLAN covering
20 the ~~person~~ INDIVIDUAL as other than a dependent, then the order of
21 benefits is reversed and the ~~policy or certificate~~ PLAN covering
22 the ~~person~~ INDIVIDUAL as other than a dependent is THE secondary
23 PLAN and the ~~policy or certificate~~ PLAN covering the ~~person~~
24 INDIVIDUAL as a dependent is THE primary PLAN.

25 ~~—— (b) Except as otherwise provided in subdivision (c), if 2~~
26 ~~policies or certificates cover a person on whose expenses the claim~~
27 ~~is based as a dependent, the benefits of the policy or certificate~~

~~1 of the person whose birthday anniversary occurs earlier in the
2 calendar year shall be determined before the benefits of the policy
3 or certificate of the person whose birthday anniversary occurs
4 later in the calendar year. If the birthday anniversaries are
5 identical, the benefits of a policy or certificate that has covered
6 the person on whose expenses the claim is based for the longer
7 period of time shall be determined before the benefits of a policy
8 or certificate that has covered the person for the shorter period
9 of time. However, if either policy or certificate is lawfully
10 issued in another state and does not have the coordination of
11 benefits procedure regarding dependents based on birthday
12 anniversaries as provided in this subdivision, and as a result each
13 policy or certificate determines its benefits after the other, the
14 coordination of benefits procedure set forth in the policy or
15 certificate that does not have the coordination of benefits
16 procedure based on birthday anniversaries shall determine the order
17 of benefits.~~

~~18 — (c) For a person for whom claim is made as a dependent minor
19 child, benefits shall be determined according to the following:~~

~~20 — (i) Except as provided in subparagraph (iii), if the parents
21 of the minor child are legally separated or divorced, and the
22 parent with custody of the minor child has not remarried, the
23 benefits of a policy or certificate that covers the minor child as
24 a dependent of the custodial parent shall be determined before the
25 benefits of a policy or certificate that covers the minor child as
26 a dependent of the noncustodial parent.~~

~~27 — (ii) Except as provided in subparagraph (iii), if the parents~~

1 ~~of the minor child are divorced, and the parent with custody of the~~
2 ~~child has remarried, the benefits of a policy or certificate that~~
3 ~~covers the minor child as a dependent of the custodial parent shall~~
4 ~~be determined before the benefits of a policy or certificate that~~
5 ~~covers the minor child as a dependent of the spouse of the~~
6 ~~custodial parent, and the benefits of a policy or certificate that~~
7 ~~covers the minor child as a dependent of the spouse of the~~
8 ~~custodial parent shall be determined before the benefits of a~~
9 ~~policy or certificate that covers the minor child as a dependent of~~
10 ~~the noncustodial parent.~~

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

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

26 **(B) THE DEPENDENT COVERED UNDER MORE THAN 1 PLAN RULE. IF THE**
27 **INDIVIDUAL IS A DEPENDENT CHILD, UNLESS THERE IS A COURT ORDER OR**

1 JUDGMENT STATING OTHERWISE, THE ORDER OF PAYMENT OF BENEFITS UNDER
2 THE PLANS COVERING THE DEPENDENT CHILD IS DETERMINED AS FOLLOWS:

3 (i) IF THE CHILD'S PARENTS ARE MARRIED OR ARE LIVING TOGETHER,
4 WHETHER OR NOT THEY HAVE EVER BEEN MARRIED, AS FOLLOWS:

5 (A) THE PLAN OF THE PARENT WHOSE BIRTHDAY FALLS EARLIER IN THE
6 CALENDAR YEAR IS THE PRIMARY PLAN.

7 (B) IF BOTH PARENTS HAVE THE SAME BIRTHDAY, THE PLAN THAT HAS
8 COVERED THE PARENT LONGEST IS THE PRIMARY PLAN.

9 (ii) IF THE CHILD'S PARENTS ARE DIVORCED, SEPARATED, OR NOT
10 LIVING TOGETHER, WHETHER OR NOT THEY HAVE EVER BEEN MARRIED, AS
11 FOLLOWS:

12 (A) IF A COURT ORDER OR JUDGMENT STATES THAT 1 OF THE PARENTS
13 IS RESPONSIBLE FOR THE DEPENDENT CHILD'S HEALTH CARE EXPENSES OR
14 HEALTH CARE COVERAGE AND THE INSURER THAT ISSUED THE PLAN OF THE
15 PARENT WITH RESPONSIBILITY HAS ACTUAL KNOWLEDGE OF THE TERMS OF THE
16 ORDER OR JUDGMENT, THAT PLAN IS THE PRIMARY PLAN. IF THE PARENT
17 WITH RESPONSIBILITY HAS NO HEALTH CARE COVERAGE FOR THE DEPENDENT
18 CHILD'S HEALTH CARE EXPENSES, BUT THAT PARENT'S SPOUSE DOES, THAT
19 PARENT'S SPOUSE'S PLAN IS THE PRIMARY PLAN. THIS SUB-SUBPARAGRAPH
20 DOES NOT APPLY WITH RESPECT TO A PLAN YEAR DURING WHICH BENEFITS
21 ARE PAID OR PROVIDED BEFORE THE INSURER HAS ACTUAL KNOWLEDGE OF THE
22 TERMS OF THE COURT ORDER OR JUDGMENT.

23 (B) IF A COURT ORDER OR JUDGMENT STATES THAT BOTH PARENTS ARE
24 RESPONSIBLE FOR THE DEPENDENT CHILD'S HEALTH CARE EXPENSES OR
25 HEALTH CARE COVERAGE, THE ORDER OF BENEFITS IS DETERMINED IN THE
26 MANNER PRESCRIBED IN SUBPARAGRAPH (i).

27 (C) IF A COURT ORDER OR JUDGMENT STATES THAT THE PARENTS HAVE

1 JOINT CUSTODY WITHOUT SPECIFYING THAT ONE PARENT HAS RESPONSIBILITY
2 FOR THE HEALTH CARE EXPENSES OR HEALTH CARE COVERAGE OF THE
3 DEPENDENT CHILD, THE ORDER OF BENEFITS IS DETERMINED IN THE MANNER
4 PRESCRIBED IN SUBPARAGRAPH (i).

5 (D) IF THERE IS NO COURT ORDER OR JUDGMENT ALLOCATING
6 RESPONSIBILITY FOR THE CHILD'S HEALTH CARE EXPENSES OR HEALTH CARE
7 COVERAGE, THE ORDER OF BENEFITS FOR THE CHILD ARE AS FOLLOWS, IN
8 THE FOLLOWING ORDER OF PRIORITY:

9 (I) THE PLAN COVERING THE CUSTODIAL PARENT.

10 (II) THE PLAN COVERING THE CUSTODIAL PARENT'S SPOUSE.

11 (III) THE PLAN COVERING THE NONCUSTODIAL PARENT.

12 (IV) THE PLAN COVERING THE NONCUSTODIAL PARENT'S SPOUSE.

13 (iii) IF THE CHILD IS COVERED UNDER MORE THAN 1 PLAN OF
14 INDIVIDUALS WHO ARE NOT THE PARENTS OF THE CHILD, THE ORDER OF
15 BENEFITS IS DETERMINED IN THE MANNER PRESCRIBED IN SUBPARAGRAPH (i)
16 OR (ii), AS APPLICABLE, AS IF THOSE INDIVIDUALS WERE PARENTS OF THE
17 CHILD.

18 (iv) IF THE CHILD IS COVERED UNDER EITHER OR BOTH PARENTS'
19 PLANS AND IS ALSO COVERED AS A DEPENDENT UNDER HIS OR HER SPOUSE'S
20 PLAN, THE ORDER OF BENEFITS IS DETERMINED IN THE MANNER PRESCRIBED
21 IN SUBDIVISION (E). IF THE DEPENDENT CHILD'S COVERAGE UNDER HIS OR
22 HER SPOUSE'S PLAN BEGAN ON THE SAME DATE AS HIS OR HER COVERAGE
23 UNDER EITHER OR BOTH PARENTS' PLANS, THE ORDER OF BENEFITS IS
24 DETERMINED BY APPLYING THE BIRTHDAY RULE PRESCRIBED IN SUBPARAGRAPH
25 (i) TO THE DEPENDENT CHILD'S PARENTS, AS APPLICABLE, AND HIS OR HER
26 SPOUSE.

27 (C) THE ACTIVE, RETIRED, OR LAID-OFF EMPLOYEE RULE. IF THE

1 INDIVIDUAL IS AN ACTIVE EMPLOYEE, LAID-OFF EMPLOYEE, OR RETIRED
2 EMPLOYEE, OR IS A DEPENDENT OF AN ACTIVE EMPLOYEE, LAID-OFF
3 EMPLOYEE, OR RETIRED EMPLOYEE, THE ORDER OF PAYMENT OF BENEFITS
4 UNDER THE PLANS COVERING THE INDIVIDUAL IS DETERMINED AS FOLLOWS:

5 ~~(i) The benefits of a policy or certificate covering PLAN THAT~~
6 ~~COVERS the person on whose expenses the claim is based as a laid-~~
7 ~~off or retired employee INDIVIDUAL AS AN ACTIVE EMPLOYEE or as a~~
8 ~~dependent of a laid-off or retired AN ACTIVE employee shall be~~
9 ~~determined after the benefits of any other policy or certificate~~
10 ~~covering the person other than IS THE PRIMARY PLAN. THE PLAN THAT~~
11 ~~COVERS THE INDIVIDUAL as a laid-off EMPLOYEE or retired employee or~~
12 ~~AS a dependent of a laid-off EMPLOYEE or retired employee IS THE~~
13 ~~SECONDARY PLAN.~~

14 ~~(ii) Subparagraph (i) does not apply if either policy or~~
15 ~~certificate is lawfully issued in another state and THE OTHER PLAN~~
16 ~~THAT COVERS THE INDIVIDUAL does not have a provision regarding~~
17 ~~laid-off or retired employees THE RULE DESCRIBED IN SUBPARAGRAPH~~
18 ~~(i) and, as a result, each policy or certificate determines its~~
19 ~~benefits after the other. THE PLANS DO NOT AGREE ON THE ORDER OF~~
20 ~~BENEFITS.~~

21 (D) THE CONTINUATION COVERAGE RULE. IF THE INDIVIDUAL HAS
22 COVERAGE UNDER A RIGHT OF CONTINUATION PURSUANT TO FEDERAL OR STATE
23 LAW, THE ORDER OF PAYMENT OF BENEFITS UNDER THE PLANS COVERING THE
24 INDIVIDUAL IS DETERMINED AS FOLLOWS:

25 ~~(i) (c) If a person whose coverage is provided under a right~~
26 ~~of continuation pursuant to federal or state law is also covered~~
27 ~~under another policy or certificate, the policy or certificate~~

1 ~~covering~~ THE PLAN THAT COVERS the ~~person~~ INDIVIDUAL as A DEPENDENT
2 OF an employee, member, subscriber, enrollee, or retiree ~~, or as~~
3 ~~that person's dependent,~~ is THE primary and PLAN. THE PLAN THAT
4 COVERS THE INDIVIDUAL UNDER the continuation coverage is THE
5 secondary PLAN.

6 (ii) SUBPARAGRAPH (i) DOES NOT APPLY IF THE OTHER PLAN THAT
7 COVERS THE INDIVIDUAL DOES NOT HAVE THE RULE DESCRIBED IN
8 SUBPARAGRAPH (i) AND, AS A RESULT, THE PLANS DO NOT AGREE ON THE
9 ORDER OF BENEFITS.

10 (E) THE LONGER OR SHORTER LENGTH OF COVERAGE RULE. IF THE
11 RULES IN SUBDIVISIONS (A) TO (D) DO NOT DETERMINE THE ORDER OF
12 BENEFITS, THE PLAN THAT HAS COVERED THE INDIVIDUAL FOR THE LONGER
13 PERIOD OF TIME IS THE PRIMARY PLAN AND THE PLAN THAT HAS COVERED
14 THE INDIVIDUAL FOR THE SHORTER PERIOD OF TIME IS THE SECONDARY
15 PLAN. TO DETERMINE THE LENGTH OF TIME AN INDIVIDUAL HAS BEEN
16 COVERED UNDER A PLAN, 2 SUCCESSIVE PLANS ARE TREATED AS 1 IF THE
17 COVERED INDIVIDUAL WAS ELIGIBLE UNDER THE SECOND PLAN WITHIN 24
18 HOURS AFTER COVERAGE UNDER THE FIRST PLAN ENDED. ANY OF THE
19 FOLLOWING CHANGES DO NOT CONSTITUTE THE START OF A NEW PLAN:

20 (i) A CHANGE IN THE AMOUNT OR SCOPE OF A PLAN'S BENEFITS.

21 (ii) A CHANGE IN THE ENTITY THAT PAYS, PROVIDES, OR
22 ADMINISTERS THE PLAN'S BENEFITS.

23 (iii) A CHANGE FROM 1 TYPE OF PLAN TO ANOTHER, SUCH AS FROM A
24 SINGLE-EMPLOYER PLAN TO A MULTIPLE-EMPLOYER PLAN.

25 ~~—— (2) A policy or certificate that contains a coordination of~~
26 ~~benefits provision shall provide that benefits under the policy or~~
27 ~~certificate shall not be reduced or otherwise limited because of~~

1 ~~the existence of another nongroup contract that is issued as a~~
2 ~~hospital indemnity, surgical indemnity, specified disease, or other~~
3 ~~policy of disability insurance as defined in section 3400 of the~~
4 ~~insurance code of 1956, Act No. 218 of the Public Acts of 1956,~~
5 ~~being section 500.3400 of the Michigan Compiled Laws.~~

6 (3) IF THE INSURERS THAT ISSUED PLANS CANNOT AGREE ON THE
7 ORDER OF BENEFITS WITHIN 30 CALENDAR DAYS AFTER THE INSURERS HAVE
8 RECEIVED ALL OF THE INFORMATION NEEDED TO PAY THE CLAIM, THE
9 INSURERS SHALL IMMEDIATELY PAY THE CLAIM IN EQUAL SHARES AND
10 DETERMINE THEIR RELATIVE LIABILITIES FOLLOWING PAYMENT. AN INSURER
11 IS NOT REQUIRED TO PAY MORE THAN IT WOULD HAVE PAID HAD THE PLAN IT
12 ISSUED BEEN THE PRIMARY PLAN.

13 (4) IN DETERMINING THE AMOUNT TO BE PAID ON A CLAIM BY THE
14 INSURER THAT ISSUED A SECONDARY PLAN, IF THE INSURER WISHES TO
15 COORDINATE BENEFITS, THE INSURER SHALL CALCULATE THE BENEFITS IT
16 WOULD HAVE PAID ON THE CLAIM IN THE ABSENCE OF OTHER HEALTH CARE
17 COVERAGE AND APPLY THE CALCULATED AMOUNT TO ANY ALLOWABLE EXPENSE
18 UNDER ITS PLAN THAT IS UNPAID UNDER THE PRIMARY PLAN. THE INSURER
19 THAT ISSUED A SECONDARY PLAN MAY REDUCE ITS PAYMENT BY THE
20 CALCULATED AMOUNT SO THAT, WHEN COMBINED WITH THE AMOUNT PAID UNDER
21 THE PRIMARY PLAN, THE TOTAL BENEFITS PAID OR PROVIDED UNDER ALL
22 PLANS FOR THE CLAIM DO NOT EXCEED 100% OF THE TOTAL ALLOWABLE
23 EXPENSE FOR THE CLAIM. IF AN INSURER THAT ISSUES A PLAN IS ADVISED
24 BY A COVERED PERSON THAT ALL PLANS COVERING THE PERSON ARE HIGH-
25 DEDUCTIBLE HEALTH PLANS AND THE PERSON INTENDS TO CONTRIBUTE TO A
26 HEALTH SAVINGS ACCOUNT ESTABLISHED IN ACCORDANCE WITH SECTION 223
27 OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 223, THE PRIMARY HIGH-

1 DEDUCTIBLE HEALTH PLAN'S DEDUCTIBLE IS NOT AN ALLOWABLE EXPENSE,
2 EXCEPT FOR ANY HEALTH CARE EXPENSE INCURRED THAT MAY NOT BE SUBJECT
3 TO THE DEDUCTIBLE AS DESCRIBED IN SECTION 223(C)(2)(C) OF THE
4 INTERNAL REVENUE CODE OF 1986, 26 USC 223.

5 (5) ~~(3)~~—A health maintenance organization is not required to
6 pay claims or coordinate benefits for services that are not
7 provided or authorized by the health maintenance organization and
8 that are not benefits under the health maintenance contract.

9 Sec. 4. The ~~commissioner~~**DIRECTOR** of **THE DEPARTMENT OF**
10 **INSURANCE AND FINANCIAL SERVICES** may promulgate rules to implement
11 and supervise this act pursuant to the administrative procedures
12 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
13 ~~24.201 to 24.315 of the Michigan Compiled Laws.~~**1969 PA 306, MCL**
14 **24.201 TO 24.328.**

15 Enacting section 1. Section 5 of the coordination of benefits
16 act, 1984 PA 64, MCL 550.255, is repealed.

17 Enacting section 2. This amendatory act does not take effect
18 unless House Bill No. 4935 of the 98th Legislature is enacted into
19 law.