

**SENATE 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 by  
adding section 3a; 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 100% OF THE  
19 TOTAL ALLOWABLE EXPENSES OF THE CLAIMS.

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) "GROUP-TYPE CONTRACT" MEANS A CONTRACT THAT IS NOT  
13 AVAILABLE TO THE GENERAL PUBLIC AND IS OBTAINED AND MAINTAINED ONLY  
14 BECAUSE OF MEMBERSHIP IN OR A CONNECTION WITH A PARTICULAR  
15 ORGANIZATION OR GROUP, INCLUDING BLANKET COVERAGE. GROUP-TYPE  
16 CONTRACT DOES NOT INCLUDE AN INDIVIDUALLY UNDERWRITTEN AND ISSUED  
17 GUARANTEED RENEWABLE POLICY EVEN IF THE POLICY IS PURCHASED THROUGH  
18 PAYROLL DEDUCTION AT A PREMIUM SAVINGS TO THE INSURED, BECAUSE THE  
19 INSURED WOULD HAVE THE RIGHT TO MAINTAIN OR RENEW THE POLICY  
20 INDEPENDENTLY OF CONTINUED EMPLOYMENT WITH THE EMPLOYER.

21 (H) ~~(e)~~-"Health maintenance organization" means a health  
22 ~~maintenance organization licensed under article 17 of the public~~  
23 ~~health code, Act No. 368 of the Public Acts of 1978, being sections~~  
24 ~~333.20101 to 333.22181 of the Michigan Compiled Laws.~~ **THAT TERM AS**  
25 **DEFINED IN SECTION 3501 OF THE INSURANCE CODE OF 1956, 1956 PA 218,**  
26 **MCL 500.3501.**

27 ~~—— (f) "Hospital service corporation" means a hospital service~~

1 ~~corporation incorporated under Act No. 109 of the Public Acts of~~  
2 ~~1939, being sections 550.501 to 550.517 of the Michigan Compiled~~  
3 ~~Laws.~~

4 (I) ~~(g)~~ "Insurer" means ~~an insurer~~ **THAT TERM** as defined in  
5 section 106 of the insurance code of 1956, ~~Act No. 218 of the~~  
6 ~~Public Acts of 1956, being section 500.106 of the Michigan Compiled~~  
7 ~~Laws.~~ **1956 PA 218, MCL 500.106.**

8 ~~—— (h) "Medical care corporation" means a medical care~~  
9 ~~corporation incorporated under Act No. 108 of the Public Acts of~~  
10 ~~1939, being sections 550.301 to 550.316 of the Michigan Compiled~~  
11 ~~Laws.~~

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

16 (J) **SUBJECT TO SUBSECTIONS (2) AND (3), "PLAN" MEANS A FORM OF**  
17 **HEALTH CARE COVERAGE WITH WHICH COORDINATION IS ALLOWED. SEPARATE**  
18 **PARTS OF A PLAN FOR MEMBERS OF A GROUP THAT ARE PROVIDED THROUGH**  
19 **ALTERNATIVE CONTRACTS AND THAT ARE INTENDED TO BE PART OF A**  
20 **COORDINATED PACKAGE OF BENEFITS ARE CONSIDERED 1 PLAN AND THERE IS**  
21 **NOT COB AMONG THE SEPARATE PARTS OF THE PLAN. IF BENEFITS ARE**  
22 **COORDINATED UNDER A PLAN, THE CONTRACT MUST STATE THE TYPES OF**  
23 **COVERAGE THAT WILL BE CONSIDERED IN APPLYING THE COB PROVISION OF**  
24 **THE CONTRACT. WHETHER THE CONTRACT USES THE TERM "PLAN" OR SOME**  
25 **OTHER TERM SUCH AS "PROGRAM", THE CONTRACTUAL DEFINITION MUST NOT**  
26 **BE BROADER THAN THE DEFINITION OF "PLAN" IN THIS SUBDIVISION. PLAN**  
27 **INCLUDES ANY OF THE FOLLOWING:**

1           (i) GROUP AND NONGROUP INSURANCE CONTRACTS AND SUBSCRIBER  
2 CONTRACTS.

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

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

5           (iv) GROUP-TYPE CONTRACTS.

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

8           (vi) MEDICARE OR OTHER GOVERNMENTAL BENEFITS, AS PERMITTED BY  
9 LAW, EXCEPT AS PROVIDED IN SUBSECTION (2)(G). PLAN UNDER THIS  
10 SUBDIVISION MAY BE LIMITED TO THE HOSPITAL, MEDICAL, AND SURGICAL  
11 BENEFITS OF THE GOVERNMENTAL PROGRAM.

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

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

16           (K) "PRIMARY PLAN" MEANS A PLAN UNDER WHICH BENEFITS FOR AN  
17 INDIVIDUAL'S HEALTH CARE COVERAGE ARE DETERMINED WITHOUT TAKING  
18 INTO CONSIDERATION THE EXISTENCE OF ANY OTHER PLAN. A PLAN IS A  
19 PRIMARY PLAN UNDER EITHER OF THE FOLLOWING CIRCUMSTANCES:

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

22           (ii) ALL PLANS THAT COVER THE INDIVIDUAL USE THE ORDER OF  
23 BENEFIT DETERMINATION RULES REQUIRED UNDER THIS ACT AND, UNDER  
24 THOSE RULES, THE BENEFITS PAYABLE UNDER THE PLAN ARE DETERMINED TO  
25 BE PAYABLE FIRST.

26           (l) "SECONDARY PLAN" MEANS A PLAN THAT IS NOT A PRIMARY PLAN.

27           (2) FOR PURPOSES OF THIS ACT, PLAN DOES NOT INCLUDE ANY OF THE

1 FOLLOWING:

2 (A) HOSPITAL INDEMNITY COVERAGE BENEFITS OR OTHER FIXED  
3 INDEMNITY COVERAGE.

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

5 (C) SPECIFIED DISEASE OR SPECIFIED ACCIDENT COVERAGE.

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

9 (E) BENEFITS PROVIDED IN LONG-TERM CARE INSURANCE POLICIES FOR  
10 NONMEDICAL SERVICES, INCLUDING PERSONAL CARE, ADULT DAY CARE,  
11 HOMEMAKER SERVICES, ASSISTANCE WITH ACTIVITIES OF DAILY LIVING,  
12 RESPITE CARE, AND CUSTODIAL CARE, OR FOR CONTRACTS THAT PAY A FIXED  
13 DAILY BENEFIT WITHOUT REGARD TO EXPENSES INCURRED OR THE RECEIPT OF  
14 SERVICES.

15 (F) MEDICARE SUPPLEMENT PLANS.

16 (G) A STATE PLAN UNDER MEDICAID.

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

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

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

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

27 (C) AN INSURER THAT PROVIDES FOR HOSPITAL, MEDICAL, SURGICAL,

1 DENTAL, OR SICK CARE BENEFITS.

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

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

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

15 (B) IF THE INDIVIDUAL IS COVERED BY MORE THAN 1 SECONDARY  
16 PLAN, THE ORDER OF BENEFIT DETERMINATION RULES UNDER THIS ACT  
17 DETERMINE THE ORDER UNDER WHICH SECONDARY PLAN BENEFITS ARE  
18 DETERMINED IN RELATION TO EACH OTHER. AN INSURER THAT ISSUES A  
19 SECONDARY PLAN SHALL TAKE INTO CONSIDERATION THE BENEFITS OF THE  
20 PRIMARY PLAN AND THE BENEFITS OF ANY OTHER PLAN THAT ARE, UNDER  
21 THIS ACT, DETERMINED TO BE PAYABLE BEFORE THOSE OF THE SECONDARY  
22 PLAN.

23 (C) SUBJECT TO SUBDIVISION (D), A PLAN THAT DOES NOT CONTAIN  
24 ORDER OF BENEFIT DETERMINATION PROVISIONS THAT ARE CONSISTENT WITH  
25 THIS ACT IS ALWAYS THE PRIMARY PLAN UNLESS THE PROVISIONS OF BOTH  
26 PLANS, REGARDLESS OF THIS SUBDIVISION, STATE THAT THE COMPLYING  
27 PLAN IS PRIMARY.



1 (D) IF THE PRIMARY PLAN IS A CLOSED PANEL PLAN AND THE  
 2 SECONDARY PLAN IS NOT A CLOSED PANEL PLAN, THE INSURER THAT ISSUES  
 3 THE SECONDARY PLAN SHALL PAY OR PROVIDE BENEFITS AS IF IT WERE THE  
 4 PRIMARY PLAN IF A COVERED PERSON USES A NONPANEL PROVIDER, EXCEPT  
 5 FOR EMERGENCY SERVICES OR AUTHORIZED REFERRALS THAT ARE PAID OR  
 6 PROVIDED BY THE INSURER THAT ISSUED THE PRIMARY PLAN.

7 (2) THE ORDER IN WHICH BENEFITS ARE PAYABLE BY INSURERS THAT  
 8 ISSUE PLANS ARE DETERMINED BY USING THE FIRST OF THE FOLLOWING  
 9 RULES THAT APPLIES:

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

15 (i) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (ii), THE  
 16 PLAN that covers the ~~person on whose expenses the claim is based~~  
 17 INDIVIDUAL other than as a dependent ~~shall be determined before the~~  
 18 ~~benefits of a policy or certificate~~ IS THE PRIMARY PLAN AND THE  
 19 PLAN that covers the ~~person~~ INDIVIDUAL as a dependent IS THE  
 20 SECONDARY PLAN.

21 (ii) ~~However, if~~ IF the ~~person~~ INDIVIDUAL is a medicare  
 22 MEDICARE beneficiary and, as a result of the provisions of title  
 23 XVIII of the social security act, ~~chapter 531, 49 Stat. 620, 42~~  
 24 ~~U.S.C. 1395 to 1395b, 1395b-2, 1395c to 1395i, 1395i-2 to 1395i-4,~~  
 25 ~~1395j to 1395t, 1395u to 1395w-2, 1395w-4 to 1395yy, and 1395bbb to~~  
 26 ~~1395ccc, medicare~~ 42 USC 1395 TO 1395///, MEDICARE is secondary to  
 27 the ~~policy or certificate~~ PLAN covering the ~~person~~ INDIVIDUAL as a

1 dependent and primary to the ~~policy or certificate~~ **PLAN** covering  
2 the ~~person~~ **INDIVIDUAL** as other than a dependent, then the order of  
3 benefits is reversed and the ~~policy or certificate~~ **PLAN** covering  
4 the ~~person~~ **INDIVIDUAL** as other than a dependent is **THE** secondary  
5 **PLAN** and the ~~policy or certificate~~ **PLAN** covering the person  
6 **INDIVIDUAL** as a dependent is **THE** primary **PLAN**.

7 ~~—— (b) Except as otherwise provided in subdivision (c), if 2~~  
8 ~~policies or certificates cover a person on whose expenses the claim~~  
9 ~~is based as a dependent, the benefits of the policy or certificate~~  
10 ~~of the person whose birthday anniversary occurs earlier in the~~  
11 ~~calendar year shall be determined before the benefits of the policy~~  
12 ~~or certificate of the person whose birthday anniversary occurs~~  
13 ~~later in the calendar year. If the birthday anniversaries are~~  
14 ~~identical, the benefits of a policy or certificate that has covered~~  
15 ~~the person on whose expenses the claim is based for the longer~~  
16 ~~period of time shall be determined before the benefits of a policy~~  
17 ~~or certificate that has covered the person for the shorter period~~  
18 ~~of time. However, if either policy or certificate is lawfully~~  
19 ~~issued in another state and does not have the coordination of~~  
20 ~~benefits procedure regarding dependents based on birthday~~  
21 ~~anniversaries as provided in this subdivision, and as a result each~~  
22 ~~policy or certificate determines its benefits after the other, the~~  
23 ~~coordination of benefits procedure set forth in the policy or~~  
24 ~~certificate that does not have the coordination of benefits~~  
25 ~~procedure based on birthday anniversaries shall determine the order~~  
26 ~~of benefits.~~

27 ~~—— (c) For a person for whom claim is made as a dependent minor~~

1 ~~child, benefits shall be determined according to the following:~~

2 ~~—— (i) Except as provided in subparagraph (iii), if the parents~~  
3 ~~of the minor child are legally separated or divorced, and the~~  
4 ~~parent with custody of the minor child has not remarried, the~~  
5 ~~benefits of a policy or certificate that covers the minor child as~~  
6 ~~a dependent of the custodial parent shall be determined before the~~  
7 ~~benefits of a policy or certificate that covers the minor child as~~  
8 ~~a dependent of the noncustodial parent.~~

9 ~~—— (ii) Except as provided in subparagraph (iii), if the parents~~  
10 ~~of the minor child are divorced, and the parent with custody of the~~  
11 ~~child has remarried, the benefits of a policy or certificate that~~  
12 ~~covers the minor child as a dependent of the custodial parent shall~~  
13 ~~be determined before the benefits of a policy or certificate that~~  
14 ~~covers the minor child as a dependent of the spouse of the~~  
15 ~~custodial parent, and the benefits of a policy or certificate that~~  
16 ~~covers the minor child as a dependent of the spouse of the~~  
17 ~~custodial parent shall be determined before the benefits of a~~  
18 ~~policy or certificate that covers the minor child as a dependent of~~  
19 ~~the noncustodial parent.~~

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

~~1 (d) If subdivisions (a), (b), and (c) do not establish an  
2 order of benefit determination, the benefits of a policy or  
3 certificate in connection with a group disability benefit plan that  
4 has covered the person on whose expenses the claim is based for the  
5 longer period of time shall be determined before the benefits of a  
6 policy or certificate that has covered the person for the shorter  
7 period of time, subject to the following:~~

8 (B) THE DEPENDENT COVERED UNDER MORE THAN 1 PLAN RULE. IF THE  
9 INDIVIDUAL IS A DEPENDENT CHILD, UNLESS THERE IS A COURT ORDER OR  
10 JUDGMENT STATING OTHERWISE, THE ORDER OF PAYMENT OF BENEFITS UNDER  
11 THE PLANS COVERING THE DEPENDENT CHILD IS DETERMINED AS FOLLOWS:

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

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

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

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

21 (A) IF A COURT ORDER OR JUDGMENT STATES THAT 1 OF THE PARENTS  
22 IS RESPONSIBLE FOR THE DEPENDENT CHILD'S HEALTH CARE EXPENSES OR  
23 HEALTH CARE COVERAGE AND THE INSURER THAT ISSUED THE PLAN OF THE  
24 PARENT WITH RESPONSIBILITY HAS ACTUAL KNOWLEDGE OF THE TERMS OF THE  
25 ORDER OR JUDGMENT, THAT PLAN IS THE PRIMARY PLAN. IF THE PARENT  
26 WITH RESPONSIBILITY HAS NO HEALTH CARE COVERAGE FOR THE DEPENDENT  
27 CHILD'S HEALTH CARE EXPENSES, BUT THAT PARENT'S SPOUSE DOES, THAT

1 PARENT'S SPOUSE'S PLAN IS THE PRIMARY PLAN. THIS SUB-SUBPARAGRAPH  
2 DOES NOT APPLY WITH RESPECT TO A PLAN YEAR DURING WHICH BENEFITS  
3 ARE PAID OR PROVIDED BEFORE THE INSURER HAS ACTUAL KNOWLEDGE OF THE  
4 TERMS OF THE COURT ORDER OR JUDGMENT.

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

9 (C) IF A COURT ORDER OR JUDGMENT STATES THAT THE PARENTS HAVE  
10 JOINT CUSTODY WITHOUT SPECIFYING THAT ONE PARENT HAS RESPONSIBILITY  
11 FOR THE HEALTH CARE EXPENSES OR HEALTH CARE COVERAGE OF THE  
12 DEPENDENT CHILD, THE ORDER OF BENEFITS IS DETERMINED IN THE MANNER  
13 PRESCRIBED IN SUBPARAGRAPH (i).

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

18 (I) THE PLAN COVERING THE CUSTODIAL PARENT.

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

20 (III) THE PLAN COVERING THE NONCUSTODIAL PARENT.

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

22 (iii) IF THE CHILD IS COVERED UNDER MORE THAN 1 PLAN OF  
23 INDIVIDUALS WHO ARE NOT THE PARENTS OF THE CHILD, THE ORDER OF  
24 BENEFITS IS DETERMINED IN THE MANNER PRESCRIBED IN SUBPARAGRAPH (i)  
25 OR (ii), AS APPLICABLE, AS IF THOSE INDIVIDUALS WERE PARENTS OF THE  
26 CHILD.

27 (iv) IF THE CHILD IS COVERED UNDER EITHER OR BOTH PARENTS'

1 PLANS AND IS ALSO COVERED AS A DEPENDENT UNDER HIS OR HER SPOUSE'S  
2 PLAN, THE ORDER OF BENEFITS IS DETERMINED IN THE MANNER PRESCRIBED  
3 IN SUBDIVISION (E). IF THE DEPENDENT CHILD'S COVERAGE UNDER HIS OR  
4 HER SPOUSE'S PLAN BEGAN ON THE SAME DATE AS HIS OR HER COVERAGE  
5 UNDER EITHER OR BOTH PARENTS' PLANS, THE ORDER OF BENEFITS IS  
6 DETERMINED BY APPLYING THE BIRTHDAY RULE PRESCRIBED IN SUBPARAGRAPH  
7 (i) TO THE DEPENDENT CHILD'S PARENTS, AS APPLICABLE, AND HIS OR HER  
8 SPOUSE.

9 (C) THE ACTIVE, RETIRED, OR LAID-OFF EMPLOYEE RULE. IF THE  
10 INDIVIDUAL IS AN ACTIVE EMPLOYEE, LAID-OFF EMPLOYEE, OR RETIRED  
11 EMPLOYEE, OR IS A DEPENDENT OF AN ACTIVE EMPLOYEE, LAID-OFF  
12 EMPLOYEE, OR RETIRED EMPLOYEE, THE ORDER OF PAYMENT OF BENEFITS  
13 UNDER THE PLANS COVERING THE INDIVIDUAL IS DETERMINED AS FOLLOWS:

14 ~~(i) The benefits of a policy or certificate covering PLAN THAT~~  
15 ~~COVERS the person on whose expenses the claim is based as a laid-~~  
16 ~~off or retired employee INDIVIDUAL AS AN ACTIVE EMPLOYEE or as a~~  
17 ~~dependent of a laid-off or retired AN ACTIVE employee shall be~~  
18 ~~determined after the benefits of any other policy or certificate~~  
19 ~~covering the person other than IS THE PRIMARY PLAN. THE PLAN THAT~~  
20 ~~COVERS THE INDIVIDUAL as a laid-off EMPLOYEE or retired employee or~~  
21 ~~AS a dependent of a laid-off EMPLOYEE or retired employee IS THE~~  
22 ~~SECONDARY PLAN.~~

23 (ii) Subparagraph (i) does not apply if ~~either policy or~~  
24 ~~certificate is lawfully issued in another state and THE OTHER PLAN~~  
25 ~~THAT COVERS THE INDIVIDUAL does not have a provision regarding~~  
26 ~~laid-off or retired employees THE RULE DESCRIBED IN SUBPARAGRAPH~~  
27 (i) and, as a result, ~~each policy or certificate determines its~~

1 ~~benefits after the other.~~ THE PLANS DO NOT AGREE ON THE ORDER OF  
2 BENEFITS.

3 (iii) THIS RULE DOES NOT APPLY IF THE PLAN THAT COVERS THE  
4 MEMBER, SUBSCRIBER, ENROLLEE, OR RETIREE OR THE INDIVIDUAL AS A  
5 DEPENDENT OF AN EMPLOYEE, MEMBER, SUBSCRIBER, ENROLLEE, OR RETIREE  
6 IS THE PRIMARY PLAN.

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

11 (i) ~~(c) If a person whose coverage is provided under a right~~  
12 ~~of continuation pursuant to federal or state law is also covered~~  
13 ~~under another policy or certificate, the policy or certificate~~  
14 ~~covering~~ THE PLAN THAT COVERS the person INDIVIDUAL as AN EMPLOYEE,  
15 MEMBER, SUBSCRIBER, ENROLLEE, OR RETIREE OR AS A DEPENDENT OF an  
16 employee, member, subscriber, enrollee, or retiree, ~~or as that~~  
17 ~~person's dependent,~~ is THE primary and PLAN. THE PLAN THAT COVERS  
18 THE INDIVIDUAL UNDER the continuation coverage is THE secondary  
19 PLAN.

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

24 (iii) THIS RULE DOES NOT APPLY IF THE ORDER OF BENEFITS CAN BE  
25 DETERMINED BY THE RULE IN SUBDIVISION (A).

26 (E) THE LONGER OR SHORTER LENGTH OF COVERAGE RULE. IF THE  
27 RULES IN SUBDIVISIONS (A) TO (D) DO NOT DETERMINE THE ORDER OF

1 BENEFITS, THE PLAN THAT HAS COVERED THE INDIVIDUAL FOR THE LONGER  
2 PERIOD OF TIME IS THE PRIMARY PLAN AND THE PLAN THAT HAS COVERED  
3 THE INDIVIDUAL FOR THE SHORTER PERIOD OF TIME IS THE SECONDARY  
4 PLAN. TO DETERMINE THE LENGTH OF TIME AN INDIVIDUAL HAS BEEN  
5 COVERED UNDER A PLAN, 2 SUCCESSIVE PLANS ARE TREATED AS 1 IF THE  
6 COVERED INDIVIDUAL WAS ELIGIBLE UNDER THE SECOND PLAN WITHIN 24  
7 HOURS AFTER COVERAGE UNDER THE FIRST PLAN ENDED. ANY OF THE  
8 FOLLOWING CHANGES DO NOT CONSTITUTE THE START OF A NEW PLAN:

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

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

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

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

22 (3) A PERSON'S LENGTH OF TIME COVERED UNDER A PLAN IS MEASURED  
23 FROM THE PERSON'S FIRST DATE OF COVERAGE UNDER THE PLAN. IF THAT  
24 DATE IS NOT READILY AVAILABLE FOR A GROUP PLAN, THE DATE THE PERSON  
25 FIRST BECAME A MEMBER OF THE GROUP MUST BE USED AS THE DATE FROM  
26 WHICH TO DETERMINE THE LENGTH OF TIME THE PERSON'S COVERAGE UNDER  
27 THE PRESENT PLAN HAS BEEN IN FORCE.



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

8           (5) EXCEPT AS PROVIDED IN SUBSECTION (6), IN DETERMINING THE  
9 AMOUNT TO BE PAID ON A CLAIM BY THE INSURER THAT ISSUED A SECONDARY  
10 PLAN, IF THE INSURER WISHES TO COORDINATE BENEFITS, THE INSURER  
11 SHALL CALCULATE THE BENEFITS IT WOULD HAVE PAID ON THE CLAIM IN THE  
12 ABSENCE OF OTHER HEALTH CARE COVERAGE AND APPLY THE CALCULATED  
13 AMOUNT TO ANY ALLOWABLE EXPENSE UNDER ITS PLAN THAT IS UNPAID UNDER  
14 THE PRIMARY PLAN. THE INSURER THAT ISSUED A SECONDARY PLAN MAY  
15 REDUCE ITS PAYMENT BY THE CALCULATED AMOUNT SO THAT, WHEN COMBINED  
16 WITH THE AMOUNT PAID UNDER THE PRIMARY PLAN, THE TOTAL BENEFITS  
17 PAID OR PROVIDED UNDER ALL PLANS FOR THE CLAIM DO NOT EXCEED 100%  
18 OF THE TOTAL ALLOWABLE EXPENSE FOR THE CLAIM.

19           (6) IN DETERMINING THE AMOUNT TO BE PAID ON A DENTAL CARE-  
20 RELATED CLAIM BY THE INSURER THAT ISSUED A SECONDARY PLAN, IF THE  
21 INSURER WISHES TO COORDINATE BENEFITS, IT MAY DO SO IN ACCORDANCE  
22 WITH SUBSECTION (5) OR, FOR NOT MORE THAN 2 YEARS AFTER THE  
23 AMENDATORY ACT THAT ADDED THIS SUBSECTION, IT MAY DO SO UNDER A  
24 NONDUPLICATION OF BENEFITS METHOD. UNDER A NONDUPLICATION OF  
25 BENEFITS METHOD, THE PRIMARY PLAN PAYMENT IS SUBTRACTED FROM THE  
26 SECONDARY PLAN'S ALLOWABLE BENEFIT AMOUNT. IF THERE IS A POSITIVE  
27 BALANCE, THE INSURER THAT ISSUED THE SECONDARY PLAN SHALL MAKE A

1 PAYMENT EQUAL TO THE DIFFERENCE. IF THERE IS A NEGATIVE OR ZERO  
2 BALANCE, THE INSURER THAT ISSUED THE SECONDARY PLAN SHALL MAKE NO  
3 PAYMENT. IF AN INSURER THAT ISSUES A PLAN IS ADVISED BY A COVERED  
4 PERSON THAT ALL PLANS COVERING THE PERSON ARE HIGH-DEDUCTIBLE  
5 HEALTH PLANS AND THE PERSON INTENDS TO CONTRIBUTE TO A HEALTH  
6 SAVINGS ACCOUNT ESTABLISHED IN ACCORDANCE WITH SECTION 223 OF THE  
7 INTERNAL REVENUE CODE OF 1986, 26 USC 223, THE PRIMARY HIGH-  
8 DEDUCTIBLE HEALTH PLAN'S DEDUCTIBLE IS NOT AN ALLOWABLE EXPENSE,  
9 EXCEPT FOR ANY HEALTH CARE EXPENSE INCURRED THAT MAY NOT BE SUBJECT  
10 TO THE DEDUCTIBLE AS DESCRIBED IN SECTION 223(C)(2)(C) OF THE  
11 INTERNAL REVENUE CODE OF 1986, 26 USC 223.

12 (7) ~~(3)~~—A health maintenance organization is not required to  
13 pay claims or coordinate benefits for services that are not  
14 provided or authorized by the health maintenance organization and  
15 that are not benefits under the health maintenance contract.

16 SEC. 3A. AN INSURER THAT, BEFORE THE EFFECTIVE DATE OF THE  
17 AMENDATORY ACT THAT ADDED THIS SECTION, ISSUED A CONTRACT THAT  
18 PROVIDES HEALTH CARE BENEFITS SHALL BRING THE CONTRACT INTO  
19 COMPLIANCE WITH THE CHANGES MADE TO THIS ACT BY THE AMENDATORY ACT  
20 THAT ADDED THIS SECTION BY EITHER OF THE FOLLOWING DATES:

21 (A) WHICHEVER OF THE FOLLOWING DATES IS LATER:

22 (i) THE NEXT ANNIVERSARY DATE OR RENEWAL DATE OF THE CONTRACT.

23 (ii) TWELVE MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
24 ACT THAT ADDED THIS SECTION.

25 (B) IF THE CONTRACT WAS WRITTEN PURSUANT TO A COLLECTIVELY  
26 BARGAINED CONTRACT, THE EXPIRATION DATE OF THE COLLECTIVELY  
27 BARGAINED CONTRACT.

1           Sec. 4. The ~~commissioner~~ **DIRECTOR** of **THE DEPARTMENT OF**  
2 insurance **AND FINANCIAL SERVICES** may promulgate rules to implement  
3 and supervise this act pursuant to the administrative procedures  
4 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~  
5 ~~24.201 to 24.315 of the Michigan Compiled Laws.~~ **1969 PA 306, MCL**  
6 **24.201 TO 24.328.**

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

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