

# HOUSE BILL No. 4934

October 1, 2015, Introduced by Rep. Kosowski and referred to the Committee on Insurance.

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:**

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:~~

~~(i) A certificate issued by a health care corporation in~~

1 ~~connection with a group disability benefit plan under which health~~  
2 ~~or dental care benefits are provided to a group of subscribers.~~

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

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

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

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

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

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

26 (ii) BECAUSE THE COVERED PERSON HAS A LOWER BENEFIT BECAUSE  
27 THE COVERED PERSON DID NOT USE A PREFERRED PROVIDER.

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

4 (i) SERVICES INCLUDING SUPPLIES.

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

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

7 (iv) AN INDEMNIFICATION.

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

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

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

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

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

25 (F) ~~(b)~~ "Dental care corporation" means a dental care  
26 corporation incorporated under ~~Act No. 125 of the Public Acts of~~  
27 ~~1963, being sections 1963 PA 125, MCL 550.351 to 550.373. of the~~

1 Michigan Compiled Laws.

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

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

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

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

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

25 ~~—— (h) "Medical care corporation" means a medical care~~  
26 ~~corporation incorporated under Act No. 108 of the Public Acts of~~  
27 ~~1939, being sections 550.301 to 550.316 of the Michigan Compiled~~

1 ~~Laws.~~

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

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

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

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

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

22 (iv) GROUP-TYPE CONTRACTS.

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

25 (vi) THE MEDICAL BENEFITS COVERAGE IN AUTOMOBILE NO-FAULT AND  
 26 TRADITIONAL AUTOMOBILE FAULT-TYPE CONTRACTS.

27 (vii) MEDICARE OR OTHER GOVERNMENTAL BENEFITS, AS PERMITTED BY

1 LAW, EXCEPT AS PROVIDED IN SUBSECTION (2) (G). PLAN UNDER THIS  
2 SUBDIVISION MAY BE LIMITED TO THE HOSPITAL, MEDICAL, AND SURGICAL  
3 BENEFITS OF THE GOVERNMENTAL PROGRAM.

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

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

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

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

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

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

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

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

22 (C) SPECIFIED DISEASE OR SPECIFIED ACCIDENT COVERAGE.

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

26 (E) BENEFITS PROVIDED IN LONG-TERM CARE INSURANCE POLICIES FOR  
27 NONMEDICAL SERVICES, INCLUDING PERSONAL CARE, ADULT DAY CARE,

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

5           (F) MEDICARE SUPPLEMENT PLANS.

6           (G) A STATE PLAN UNDER MEDICAID.

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

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

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

15          (B) A DENTAL CARE CORPORATION UNDER WHICH DENTAL CARE BENEFITS  
 16   ARE PROVIDED TO A GROUP OF SUBSCRIBERS.

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

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

27   ~~— (a) The benefits of a policy or certificate~~ **IF AN INDIVIDUAL**

1 IS COVERED BY 2 OR MORE PLANS, THE RULES FOR DETERMINING THE ORDER  
2 OF BENEFIT PAYMENTS ARE AS FOLLOWS:

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

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

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

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

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

27 (A) THE NONDEPENDENT/DEPENDENT RULE. IF THE INDIVIDUAL IS NOT



1 A DEPENDENT BUT IS AN EMPLOYEE, MEMBER, SUBSCRIBER, POLICYHOLDER,  
 2 OR RETIREE UNDER 1 PLAN AND IS A DEPENDENT UNDER ANOTHER PLAN, THE  
 3 ORDER OF PAYMENT OF BENEFITS UNDER THE PLANS IS DETERMINED AS  
 4 FOLLOWS:

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

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

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

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

~~17 ——— (c) For a person for whom claim is made as a dependent minor  
18 child, benefits shall be determined according to the following:~~

~~19 ——— (i) Except as provided in subparagraph (iii), if the parents  
20 of the minor child are legally separated or divorced, and the  
21 parent with custody of the minor child has not remarried, the  
22 benefits of a policy or certificate that covers the minor child as  
23 a dependent of the custodial parent shall be determined before the  
24 benefits of a policy or certificate that covers the minor child as  
25 a dependent of the noncustodial parent.~~

~~26 ——— (ii) Except as provided in subparagraph (iii), if the parents  
27 of the minor child are divorced, and the parent with custody of the~~

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

~~10 — (iii) If the parents of the minor child are divorced, and the  
11 decree of divorce places financial responsibility for the medical,  
12 dental, or other health care expenses of the minor child upon  
13 either the custodial or the noncustodial parent, the benefits of a  
14 policy or certificate that covers the minor child as a dependent of  
15 the parent with such financial responsibility shall be determined  
16 before the benefits of any other policy or certificate that covers  
17 the minor child as a dependent.~~

~~18 — (d) If subdivisions (a), (b), and (c) do not establish an  
19 order of benefit determination, the benefits of a policy or  
20 certificate in connection with a group disability benefit plan that  
21 has covered the person on whose expenses the claim is based for the  
22 longer period of time shall be determined before the benefits of a  
23 policy or certificate that has covered the person for the shorter  
24 period of time, subject to the following:~~

~~25 (B) THE DEPENDENT COVERED UNDER MORE THAN 1 PLAN RULE. IF THE  
26 INDIVIDUAL IS A DEPENDENT CHILD, UNLESS THERE IS A COURT ORDER OR  
27 JUDGMENT STATING OTHERWISE, THE ORDER OF PAYMENT OF BENEFITS UNDER~~

1 THE PLANS COVERING THE DEPENDENT CHILD IS DETERMINED AS FOLLOWS:

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

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

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

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

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

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

26 (C) IF A COURT ORDER OR JUDGMENT STATES THAT THE PARENTS HAVE  
27 JOINT CUSTODY WITHOUT SPECIFYING THAT ONE PARENT HAS RESPONSIBILITY

1 FOR THE HEALTH CARE EXPENSES OR HEALTH CARE COVERAGE OF THE  
2 DEPENDENT CHILD, THE ORDER OF BENEFITS IS DETERMINED IN THE MANNER  
3 PRESCRIBED IN SUBPARAGRAPH (i).

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

8 (I) THE PLAN COVERING THE CUSTODIAL PARENT.

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

10 (III) THE PLAN COVERING THE NONCUSTODIAL PARENT.

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

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

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

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

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

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

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

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

24 (i) ~~(c) If a person whose coverage is provided under a right~~  
25 ~~of continuation pursuant to federal or state law is also covered~~  
26 ~~under another policy or certificate, the policy or certificate~~  
27 ~~covering~~ THE PLAN THAT COVERS the person INDIVIDUAL as A DEPENDENT

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

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

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

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

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

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

24 ~~— (2) A policy or certificate that contains a coordination of~~  
25 ~~benefits provision shall provide that benefits under the policy or~~  
26 ~~certificate shall not be reduced or otherwise limited because of~~  
27 ~~the existence of another nongroup contract that is issued as a~~

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

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

12 (4) IN DETERMINING THE AMOUNT TO BE PAID ON A CLAIM BY THE  
13 INSURER THAT ISSUED A SECONDARY PLAN, IF THE INSURER WISHES TO  
14 COORDINATE BENEFITS, THE INSURER SHALL CALCULATE THE BENEFITS IT  
15 WOULD HAVE PAID ON THE CLAIM IN THE ABSENCE OF OTHER HEALTH CARE  
16 COVERAGE AND APPLY THE CALCULATED AMOUNT TO ANY ALLOWABLE EXPENSE  
17 UNDER ITS PLAN THAT IS UNPAID UNDER THE PRIMARY PLAN. THE INSURER  
18 THAT ISSUED A SECONDARY PLAN MAY REDUCE ITS PAYMENT BY THE  
19 CALCULATED AMOUNT SO THAT, WHEN COMBINED WITH THE AMOUNT PAID UNDER  
20 THE PRIMARY PLAN, THE TOTAL BENEFITS PAID OR PROVIDED UNDER ALL  
21 PLANS FOR THE CLAIM DO NOT EXCEED 100% OF THE TOTAL ALLOWABLE  
22 EXPENSE FOR THE CLAIM. IN ADDITION, THE INSURER THAT ISSUED A  
23 SECONDARY PLAN SHALL CREDIT TO A PLAN DEDUCTIBLE ANY AMOUNTS IT  
24 WOULD HAVE CREDITED TO THE DEDUCTIBLE IN THE ABSENCE OF OTHER  
25 HEALTH CARE COVERAGE.

26 (5) ~~(3)~~—A health maintenance organization is not required to  
27 pay claims or coordinate benefits for services that are not



1 provided or authorized by the health maintenance organization and  
2 that are not benefits under the health maintenance contract.

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

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

11       Enacting section 2. This amendatory act does not take effect  
12 unless Senate Bill No.\_\_\_\_ or House Bill No. 4935 (request no.  
13 00198'15 \*\*) of the 98th Legislature is enacted into law.