

Supplemental Health, DI & LTC Conference

Session 6.4 ■
**Supplemental Health
Regulatory Update**



ENGAGE

EVOLVE

ELEVATE

2023



Rikki Pelta

Counsel

ACLI



Hunter Sexton, JD , MHA

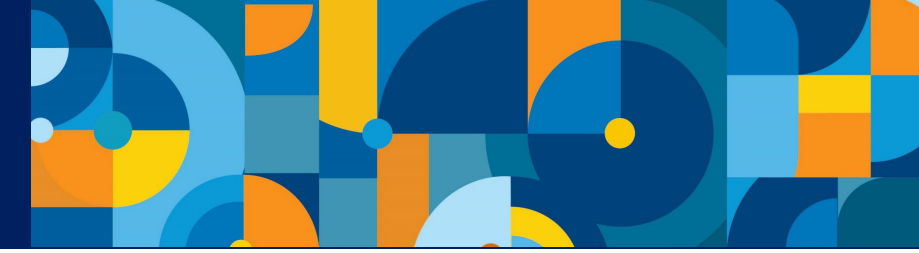
Compliance Consultant

Sydney Consulting Group

New Mexico Excepted Benefits Rulemaking



- The minimum standards rule (13.10.34) was finalized by the Office of the Superintendent in 2022. The original effective date of July 1, 2023 was recently changed to January 1, 2024.
 - The rule applies heavy restrictions on excepted benefits and what companies are allowed to offer (no variability on group products).
 - E.g. extraterritorial application, limitations on number of benefits, application of “other fixed indemnity”
 - OSI made clear that the restrictions are based on their belief that consumers will mistakenly purchase excepted benefits in lieu of major medical insurance without realizing what they are buying.
 - No clear guidance for what acceptable rate materials look like.

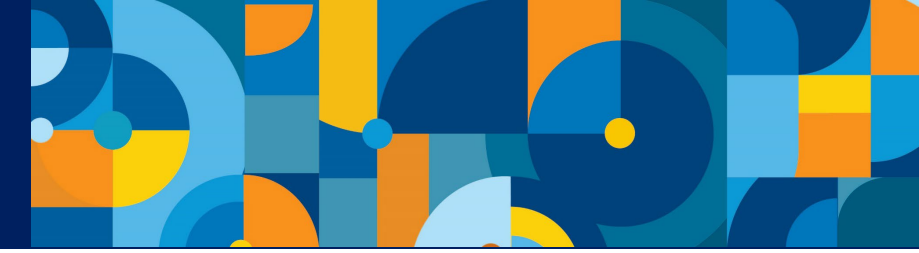



- Guiding principles:
 - No relitigating issues decided during the revision of Model 170;
 - *Minimum* standards.
- Emphasis on striking the balance between consumer protection and retaining the value of the products.
 - E.g. compromises on consumer representative requests to shorten the preexisting condition lookback period and remove “prudent person” standard and remove mental health parity as a permissible exclusion.
- Overall, the changes have been minimal.
 - Partially due to proposed federal rule on STLDI.
- Worked with consumer representatives on disclosures.



- Charged with addressing bad actors who improperly market products like Supplemental Benefits, Health Sharing Ministries, and STLDI as alternatives to major medical insurance
- Identifying bad actors and working with the federal government to penalize
- Amending the Unfair Trade Practices Act (Model 880)
 - Addition of a definition for lead generators
- May consider amendments to other models including Marketing for Accident and Sickness Plans (Model 40)

Wellness Benefits



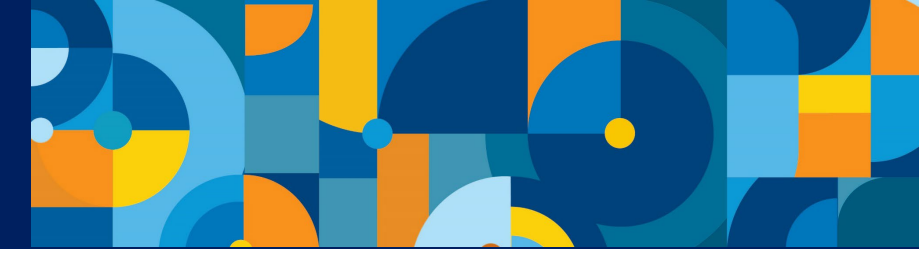
- More states are prohibiting wellness benefits in excepted benefits products. 
- Michigan has had a prohibition on all excepted benefits products in place for a few years.
- Virginia recently received legal guidance prohibiting wellness benefits in all products but is still forming their position.
- Other problem states include:
 - CO, ID, KS, NH, NM

Federal Triagency Rule



- Rule covers STLDI and independent, noncoordinated excepted benefits.
- Would define “short term” as limited to 3-month duration and define “limited duration” to 4 months to reflect renewals or extensions for policies issued after the effective date.
- For policies issued before the effective date, would maintain the ability to have a maximum duration of 36 months, subject to state-stipulated limitations on maximum duration and renewability.

Federal Triagency Rule



- Individual Hospital Indemnity and Other Fixed Indemnity
 - Only appears to impact HI, but notes potential future changes to CI.
 - Would no longer allow payments on a per service or per service per day basis.
 - E.g. \$50 per blood test per day
 - Would no longer allow payments based on severity.
 - E.g. Air vs. Ground Ambulance
- Rule proposes new, clearer disclaimer language requirements.
- The proposed rule does not acknowledge the fact that many of these policies are non-cancelable or guaranteed renewable.

Federal Triagency Rule



- Would change the tax treatment of the benefits to be fully taxable.
 - Payments under these policies would be considered wages subjected to income and FICA/FUTA tax as well as wage withholding.
- For new policies, the effective date would be 75 days after the rule is adopted creating filing challenges.
- Legacy policies will have until January 1, 2027 to comply.
 - Implies need for refiling
- Unknown: How will states interpret the proposed rule changes?
 - Will there be changes in state interpretations of “excepted benefits” even if the rule isn’t promulgated as currently drafted?



Thank You



EVOLVE

ENGAGE

2023

ELEVATE