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CR 85-31

STATE OF WISCONSIN  
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JUN 03 1985

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

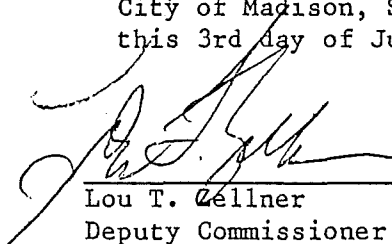
STATE OF WISCONSIN )  
 )  
OFFICE OF THE COMMISSIONER OF INSURANCE )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lou T. Zellner, Deputy Commissioner of Insurance and  
custodian of the official records of said office, do hereby certify that  
the annexed order renumbering, amending, repealing and recreating a rule  
relating to coordination of benefit clauses for group and blanket  
disability insurance plans was issued by this office June 3, 1985.

I further certify that said copy has been compared by me with  
the original on file in this office and that the same is a true copy  
thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have  
hereunto subscribed my name in the  
City of Madison, State of Wisconsin,  
this 3rd day of June, 1985.

  
\_\_\_\_\_  
Lou T. Zellner  
Deputy Commissioner of Insurance

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STATE OF WISCONSIN  
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JUN 03 1985

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

ORDER OF THE COMMISSIONER OF INSURANCE

RENUMBERING, AMENDING, REPEALING AND RECREATING A RULE

To renumber Ins 3.40 (8) through (19), to renumber and amend Ins 3.40 (20), and to repeal and recreate Ins 3.40 (7) (d) 1. through 3. and (e) relating to coordination of benefit clauses for group and blanket disability insurance plans.

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ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

The purpose of these changes is to establish a new equitable mechanism for coordinating benefits of two or more group health plans in order to determine the primary plan (1) for dependent children who are covered by two group health plans as a result of both the mother's and the father's employment and (2) for laid-off or retired employees. The new mechanism to determine the primary plan for dependent children replaces an existing mechanism. Ins 3.40 implements ss. 631.23 and 632.77 (3), Stats.

Coordination of benefits is a mechanism establishing the order of benefit determination where the benefits of two plans covering the same person are coordinated so that no more than 100% is paid for all covered expenses by both plans combined. The primary plan is the one that pays first. The

secondary plan pays after the primary and pays the difference between 100% of covered expenses and what was paid by the primary plan.

For dependent children, the proposed amendment would determine the primary plan for dependent children according to the birthdates (month and day only) of the parents. The plan for the parent whose birthdate occurs earlier in the calendar year shall be primary. The plan for the parent whose birthdate occurs later in the calendar year shall be secondary.

The recommended changes will determine the primary plan for laid-off and retired employes as the plan which covers the person as an active employe. The secondary plan for these individuals will be the plan covering the person as the result of retirement or lay-off. This applies to persons who retain coverage under the group after a lay off or retirement.

The changes also provide for a fall-back or default system to the current rule provisions in the event that both plans do not have the birthdate or the laid-off or retired employe provisions. This allowance is necessary so that insureds are not harmed if they happen to be insured by two plans which both claim to be the secondary plan according to the rules of the particular plan.

Under the current rule, if both parents are employed and both have group health insurance which also covers dependents, the primary plan for dependent children is the father's plan, and the mother's plan is secondary. In the case of a person who is covered under two group health plans in his or her own right, the plan which has covered the person for the longer period of time is primary. This particularly applies to situations where an individual is laid-off or retires, continues to be covered under the employer's group plan, and then secures other employment which also provides coverage for group health insurance.

The rule is designed so that the sex of the parents will continue to determine the primary plan until July 1, 1986. However, policies issued or renewed after the effective date of the amendments but before July 1, 1986 must contain language stating that as of July 1, 1986, the parents' birthdates shall determine the primary plan for dependent children. This results in all policies for all companies changing from the sex to the birthdates of the parents on the same day. This will result in ease of administration and fewer claim delays.

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Pursuant to the authority vested in the Commissioner of Insurance by ss. 601.41 (3), 631.23 and 632.77 (3), Stats., the Commissioner hereby repeals, renumbers, and repeals and recreates sections of Ins 3.40 which implement ss. 631.23 and 632.77 (3), Stats., as follows:

SECTION 1. Ins 3.40 (7) (d) 1. through 3. and (e) are repealed and recreated to read:

(8) ORDER OF BENEFIT DETERMINATION. For the purposes of sub. (7) (c), the rules establishing the order of benefit determination are:

(a) The benefits of a Plan which covers the person on whose expenses claim is based other than as a dependent shall be determined before the benefits of a Plan which covers the person as a dependent;

(b) For claims incurred prior to July 1, 1986, and except as provided under par. (c) 2., the benefits of a Plan which covers the person on whose expenses claim is based as a dependent of a male person shall be determined before the benefits of a Plan which covers the person as a dependent of a female person; except that in case of a person for a whom claim is made as a dependent child,

1. When parents are separated or divorced and the parent with custody of the child has not remarried, the benefits of a Plan which covers the child as a dependent of the parent with custody of the child shall be determined before the benefits of a Plan which covers the child as a dependent of the parent without custody;

2. When parents are divorced and the parent with custody of the child has remarried, the benefits of a Plan which covers the child as a dependent of the parent with custody shall be determined before the benefits of a Plan which covers that child as a dependent of the stepparent, and the benefits of a Plan which covers that child as a dependent of the stepparent shall be determined before the benefits of a Plan which covers that child as a dependent of the parent without custody;

3. Notwithstanding subs. 1. and 2., if there is a court decree which otherwise establishes financial responsibility for the medical, dental or other health care expenses with respect to the child, the benefits of a Plan which covers the child as a dependent of the parent with such financial responsibility shall be determined before the benefits of any other Plan which covers the child as a dependent child.

(c) For claims incurred on or after July 1, 1986,

1. Except as provided in subd. 2., the benefits of a plan which covers the person on whose expenses claim is based as a dependent of a person whose date of birth, excluding year of birth, occurs earlier in a calendar year shall be determined before the benefits of a Plan which covers such person as a dependent of a person whose date of birth, excluding year of birth, occurs later in a calendar year. If either Plan does not have the provisions of this subdivision regarding dependents, which results either in

each Plan determining its benefits before the other or in each Plan determining its benefits after the other, the provisions of this subdivision do not apply, and the rule set forth in the Plan which does not have the provisions of this subdivision shall determine the order of benefits.

2. If a claim is made for a dependent child whose parents are separated or divorced, the order of benefit determination as set forth in (b) 1. to 3. shall apply.

(d) When pars. (a), (b), and (c) do not establish an order of benefit determination, the benefits of a Plan which has covered the person on whose expenses claim is based for the longer period of time shall be determined before the benefits of a Plan which has covered the person the shorter period of time, provided that:

1. The benefits of a plan covering the person on whose expenses claim is based as a laid-off or retired employe, or dependent of such person, shall be determined after the benefits of any other Plan covering the person as an employe, other than a laid-off or retired employe, or dependent of such person; and

2. If either Plan does not have a provision regarding laid-off or retired employes, which results in each Plan determining its benefits after the other, then the provisions of subd. 1. shall not apply.

(e) When this subsection operates to reduce the total amount of benefits otherwise payable as to a person covered under this Plan during any Claim Determination Period, each benefit that would be payable in the absence of this provision shall be reduced proportionately, and the reduced amount

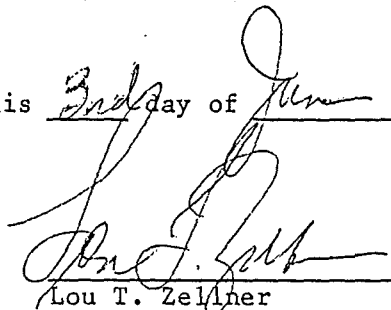
shall be charged against any applicable benefit limit of this Plan. This clause may be omitted if the Plan provides only one benefit.

SECTION 2. Ins 3.40 (8) to Ins 3.40 (19) are renumbered Ins 3.40 (9) to Ins 3.40 (20).

SECTION 3. Ins 3.40 (20) is renumbered and amended to read:

~~(20)-(21) EFFECTIVE DATE. This section shall become effective on September 1, 1980. The authorized clauses, authorized modifications thereof and the substantive requirements of this section shall apply to all policy and contract forms subject to this section that are issued on or after this effective date. Policies or contracts which are otherwise subject to this section which are in force as of the effective date shall comply with this section by the later of the next anniversary or renewal date of the group policy or contract, or the expiration of the applicable collectively bargained contract pursuant to which they were written, if any. Group and blanket disability policies issued or renewed on or after the first day of the month following publication of this rule in the Wisconsin Administrative Register as provided in s. 227.026 (1) (intro.), Stats., shall contain the order of benefit determination as described in sub. (8).~~

Dated at Madison, Wisconsin, this 3rd day of June, 1985.



Lou T. Zelner  
Deputy Commissioner of Insurance



The State of Wisconsin  
Office of the Commissioner of Insurance

Thomas P. Fox  
Commissioner  
(608) 266-3585

RECEIVED

JUN 4 1985

DATE: June 3, 1985  
TO: Gary Poulson  
FROM: M. E. Van Cleave  
Assistant Deputy Commissioner of Insurance  
SUBJECT: Ins 3.40, Clearinghouse No. 85-31

Revisor of Statutes  
Bureau

A handwritten signature in dark ink, appearing to be "M. E. Van Cleave", written over the typed name of the Assistant Deputy Commissioner of Insurance.

Enclosed are two copies of an Order of the Commissioner of Insurance renumbering, amending, repealing and recreating a rule relating to coordination of benefit clauses for group and blanket disability insurance plans.

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Enclosure  
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