

2022 -- H 7183

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES --  
LIFETIME LIMITS

Introduced By: Representatives Kislak, Donovan, Speakman, Cassar, Tanzi, Morales,  
Felix, Potter, Cortvriend, and McGaw

Date Introduced: January 26, 2022

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-18-73 of the General Laws in Chapter 27-18 entitled "Accident  
2 and Sickness Insurance Policies" is hereby amended to read as follows:

3 **27-18-73. Prohibition on annual and lifetime limits.**

4 (a) Annual limits.

5 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
6 insurance carrier and a health benefit plan subject to the jurisdiction of the commissioner under this  
7 chapter may establish an annual limit on the dollar amount of benefits that are essential health  
8 benefits provided the restricted annual limit is not less than the following:

9 ~~(A)~~(i) For a plan or policy year beginning after September 22, 2011, but before September  
10 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

11 ~~(B)~~(ii) For a plan or policy year beginning after September 22, 2012, but before January 1,  
12 2014 -- two million dollars (\$2,000,000).

13 (2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier  
14 and a health benefit plan shall not establish any annual limit on the dollar amount of essential health  
15 benefits for any individual, except:

16 ~~(A)~~(i) A health flexible spending arrangement, as defined in Section 106(c)(2)(i) of the  
17 Federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal  
18 Internal Revenue Code, and a health savings account, as defined in Section 223 of the federal

1 Internal Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this  
2 subsection.

3 ~~(B)~~(ii) The provisions of this subsection shall not prevent a health insurance carrier and a  
4 health benefit plan from placing annual dollar limits for any individual on specific covered benefits  
5 that are not essential health benefits to the extent that such limits are otherwise permitted under  
6 applicable federal law or the laws and regulations of this state.

7 (3) In determining whether an individual has received benefits that meet or exceed the  
8 allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and a  
9 health benefit plan shall take into account only essential health benefits.

10 (b) Lifetime limits.

11 (1) A health insurance carrier and health benefit plan offering group or individual health  
12 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
13 for any individual.

14 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
15 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
16 benefits that are not essential health benefits, in accordance with federal laws and regulations.

17 (c)(1) The provisions of this section relating to lifetime limits apply to any health insurance  
18 carrier providing coverage under an individual or group health plan, including grandfathered health  
19 plans.

20 (2) The provisions of this section relating to annual limits apply to any health insurance  
21 carrier providing coverage under a group health plan, including grandfathered health plans, but the  
22 prohibition and limits on annual limits do not apply to grandfathered health plans providing  
23 individual health insurance coverage.

24 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014 for  
25 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
26 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
27 benefits for: (1) hospital confinement indemnity; (2) disability income; (3) accident only; (4) long  
28 term care; (5) Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8)  
29 sickness or bodily injury or death by accident or both; and (9) other limited benefit policies.

30 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
31 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
32 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
33 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
34 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~

~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to regulate health insurance under existing state law.~~

SECTION 2. Section 27-19-63 of the General Laws in Chapter 27-19 entitled "Nonprofit Hospital Service Corporations" is hereby amended to read as follows:

**27-19-63. Prohibition on annual and lifetime limits.**

(a) Annual limits.

(1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health insurance carrier and health benefit plan subject to the jurisdiction of the commissioner under this chapter may establish an annual limit on the dollar amount of benefits that are essential health benefits provided the restricted annual limit is not less than the following:

~~(A)~~(i) For a plan or policy year beginning after September 22, 2011, but before September 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

~~(B)~~(ii) For a plan or policy year beginning after September 22, 2012, but before January 1, 2014 -- two million dollars (\$2,000,000).

(2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier and health benefit plan shall not establish any annual limit on the dollar amount of essential health benefits for any individual, except:

~~(A)~~(i) A health flexible spending arrangement, as defined in Section 106(c)(2) of the federal Internal Revenue Code, a medical savings account, as defined in Section 220 of the federal Internal Revenue Code, and a health savings account, as defined in Section 223 of the federal Internal Revenue Code, are not subject to the requirements of subdivisions (1) and (2) of this subsection.

~~(B)~~(ii) The provisions of this subsection shall not prevent a health insurance carrier and health benefit plan from placing annual dollar limits for any individual on specific covered benefits that are not essential health benefits to the extent that such limits are otherwise permitted under applicable federal law or the laws and regulations of this state.

(3) In determining whether an individual has received benefits that meet or exceed the allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier and health benefit plan shall take into account only essential health benefits.

(b) Lifetime limits.

(1) A health insurance carrier and health benefit plan offering group or individual health insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits for any individual.

(2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit

1 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
2 benefits that are not essential health benefits in accordance with federal laws and regulations.

3 (c)(1) The provisions of this section relating to lifetime limits apply to any health insurance  
4 carrier providing coverage under an individual or group health plan, including grandfathered health  
5 plans.

6 (2) The provisions of this section relating to annual limits apply to any health insurance  
7 carrier providing coverage under a group health plan, including grandfathered health plans, but the  
8 prohibition and limits on annual limits do not apply to grandfathered health plans providing  
9 individual health insurance coverage.

10 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014, for  
11 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
12 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
13 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)  
14 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
15 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
16 policies.

17 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
18 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
19 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
20 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
21 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
22 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
23 ~~regulate health insurance under existing state law.~~

24 SECTION 3. Section 27-20-59 of the General Laws in Chapter 27-20 entitled "Nonprofit  
25 Medical Service Corporations" is hereby amended to read as follows:

26 **27-20-59. Annual and lifetime limits.**

27 (a) Annual limits.

28 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
29 insurance carrier and health benefit plan subject to the jurisdiction of the commissioner under this  
30 chapter may establish an annual limit on the dollar amount of benefits that are essential health  
31 benefits provided the restricted annual limit is not less than the following:

32 ~~(A)~~(i) For a plan or policy year beginning after September 22, 2011, but before September  
33 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

34 ~~(B)~~(ii) For a plan or policy year beginning after September 22, 2012, but before January 1,

1 2014 -- two million dollars (\$2,000,000).

2 (2) For plan or policy years beginning on or after January 1, 2014, a health insurance carrier  
3 and health benefit plan shall not establish any annual limit on the dollar amount of essential health  
4 benefits for any individual, except:

5 ~~(A)~~(i) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the  
6 federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal  
7 Internal Revenue Code, and a health savings account, as defined in section 223 of the federal  
8 Internal Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this  
9 subsection.

10 ~~(B)~~(ii) The provisions of this subsection shall not prevent a health insurance carrier from  
11 placing annual dollar limits for any individual on specific covered benefits that are not essential  
12 health benefits to the extent that such limits are otherwise permitted under applicable federal law  
13 or the laws and regulations of this state.

14 (3) In determining whether an individual has received benefits that meet or exceed the  
15 allowable limits, as provided in subdivision (1) of this subsection, a health insurance carrier shall  
16 take into account only essential health benefits.

17 (b) Lifetime limits.

18 (1) A health insurance carrier and health benefit plan offering group or individual health  
19 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
20 for any individual.

21 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
22 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
23 benefits that are not essential health benefits, as designated pursuant to a state determination and in  
24 accordance with federal laws and regulations.

25 (c)(1) Except as provided in subdivision (2) of this subsection, this section applies to any  
26 health insurance carrier providing coverage under an individual or group health plan.

27 (2)~~(A)~~(i) The prohibition on lifetime limits applies to grandfathered health plans.

28 ~~(B)~~(ii) The prohibition and limits on annual limits apply to grandfathered health plans  
29 providing group health insurance coverage, but the prohibition and limits on annual limits do not  
30 apply to grandfathered health plans providing individual health insurance coverage.

31 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014, for  
32 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
33 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
34 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)

1 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
2 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
3 policies.

4 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
5 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
6 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
7 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
8 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
9 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
10 ~~regulate health insurance under existing state law.~~

11 SECTION 4. Section 27-41-76 of the General Laws in Chapter 27-41 entitled "Health  
12 Maintenance Organizations" is hereby amended to read as follows:

13 **27-41-76. Prohibition on annual and lifetime limits.**

14 (a) Annual limits.

15 (1) For plan or policy years beginning prior to January 1, 2014, for any individual, a health  
16 maintenance organization subject to the jurisdiction of the commissioner under this chapter may  
17 establish an annual limit on the dollar amount of benefits that are essential health benefits provided  
18 the restricted annual limit is not less than the following:

19 ~~(A)~~(i) For a plan or policy year beginning after September 22, 2011, but before September  
20 23, 2012 -- one million two hundred fifty thousand dollars (\$1,250,000); and

21 ~~(B)~~(ii) For a plan or policy year beginning after September 22, 2012, but before January 1,  
22 2014 -- two million dollars (\$2,000,000).

23 (2) For plan or policy years beginning on or after January 1, 2014, a health maintenance  
24 organization shall not establish any annual limit on the dollar amount of essential health benefits  
25 for any individual, except:

26 ~~(A)~~(i) A health flexible spending arrangement, as defined in section 106(c)(2)(i) of the  
27 federal Internal Revenue Code, a medical savings account, as defined in section 220 of the federal  
28 Internal Revenue Code, and a health savings account, as defined in section 223 of the federal  
29 Internal Revenue Code are not subject to the requirements of subdivisions (1) and (2) of this  
30 subsection.

31 ~~(B)~~(ii) The provisions of this subsection shall not prevent a health maintenance  
32 organization from placing annual dollar limits for any individual on specific covered benefits that  
33 are not essential health benefits to the extent that such limits are otherwise permitted under  
34 applicable federal law or the laws and regulations of this state.

1 (3) In determining whether an individual has received benefits that meet or exceed the  
2 allowable limits, as provided in subdivision (1) of this subsection, a health maintenance  
3 organization shall take into account only essential health benefits.

4 (b) Lifetime limits.

5 (1) A health insurance carrier and health benefit plan offering group or individual health  
6 insurance coverage shall not establish a lifetime limit on the dollar value of essential health benefits  
7 for any individual.

8 (2) Notwithstanding subdivision (1) above, a health insurance carrier and health benefit  
9 plan is not prohibited from placing lifetime dollar limits for any individual on specific covered  
10 benefits that are not essential health benefits in accordance with federal laws and regulations.

11 (c)(1) The provisions of this section relating to lifetime limits apply to any health  
12 maintenance organization or health insurance carrier providing coverage under an individual or  
13 group health plan, including grandfathered health plans.

14 (2) The provisions of this section relating to annual limits apply to any health maintenance  
15 organization or health insurance carrier providing coverage under a group health plan, including  
16 grandfathered health plans, but the prohibition and limits on annual limits do not apply to  
17 grandfathered health plans providing individual health insurance coverage.

18 (d) This section shall not apply to a plan or to policy years prior to January 1, 2014, for  
19 which the Secretary of the U.S. Department of Health and Human Services issued a waiver pursuant  
20 to 45 C.F.R. § 147.126(d)(3). This section also shall not apply to insurance coverage providing  
21 benefits for: (1) Hospital confinement indemnity; (2) Disability income; (3) Accident only; (4)  
22 Long-term care; (5) Medicare supplement; (6) Limited benefit health; (7) Specified disease  
23 indemnity; (8) Sickness or bodily injury or death by accident or both; and (9) Other limited benefit  
24 policies.

25 ~~(e) If the commissioner of the office of the health insurance commissioner determines that~~  
26 ~~the corresponding provision of the federal Patient Protection and Affordable Care Act has been~~  
27 ~~declared invalid by a final judgment of the federal judicial branch or has been repealed by an act~~  
28 ~~of Congress, on the date of the commissioner's determination this section shall have its~~  
29 ~~effectiveness suspended indefinitely, and the commissioner shall take no action to enforce this~~  
30 ~~section. Nothing in this subsection shall be construed to limit the authority of the Commissioner to~~  
31 ~~regulate health insurance under existing state law.~~

32 SECTION 5. This act shall take effect upon passage.

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LC003447  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO INSURANCE -- ACCIDENT AND SICKNESS INSURANCE POLICIES --  
LIFETIME LIMITS

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1           This act would repeal the authority of the health insurance commissioner to enforce any  
2 act of the United States Congress or a federal court decision that invalidates or repeals the  
3 prohibition of annual and lifetime limits on health insurance contained in the federal Patient  
4 Protection and Affordable Care Act as it pertains to this state.

5           This act would take effect upon passage.

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