

Insurance Coverage for Preexisting Conditions

By: Janet Kaminski Leduc, Senior Legislative Attorney
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Issue

Summarize the current law regarding coverage for preexisting conditions under a health insurance policy.

Summary

Both federal and state laws currently require certain health insurance policies to cover preexisting conditions. Under federal law, most group and individual health insurance policies may not exclude coverage for preexisting conditions. State law generally prohibits group and individual health insurance policies from excluding coverage for preexisting conditions, but allows certain short-term health insurance policies to do so. We summarize the federal and state laws below.

Federal Law

Prior to the Affordable Care Act (ACA) (P.L. 111-148 as amended by P.L. 111-152), federal law contained complex rules regarding insurance coverage of preexisting conditions. The ACA amended federal law regarding coverage of preexisting conditions. As a result, under current federal law, "a group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion with respect to such plan or coverage" (42 U.S.C. § 300gg-3; ACA § 1201).

Federal law defines the term "preexisting condition exclusion" as a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of

enrollment for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

However, according to this U.S. Department of Health and Human Services [website](#), the federal preexisting condition exclusion provision does not apply to grandfathered individual health insurance plans. (A grandfathered plan is one that was in existence before March 23, 2010 that has not since made significant changes to reduce benefits or increase costs to consumers (ACA § 1251).)

State Law

Under Connecticut law, the requirement for an insurance policy to cover preexisting conditions varies depending on whether the policy is a short-term one.

General Prohibition

State law generally prohibits group and individual health insurance plans or arrangements from imposing a preexisting conditions provision on any person ([CGS § 38a-476](#)).

It further prohibits insurance companies, fraternal benefit societies, hospital and medical service corporations, and health care centers (i.e., HMOs) from refusing to issue an individual health insurance plan or arrangement to a person based solely on the fact that the person has a preexisting condition.

State law defines a "preexisting conditions provision" as a provision that limits or excludes benefits relating to a condition because the condition was present before the effective date of coverage and medical advice, diagnosis, care, or treatment was recommended or received before the effective date.

Exception for Certain Short-term Health Insurance Policies

Despite the general prohibition, state law allows certain short-term health insurance policies to impose a preexisting conditions provision. Specifically, a short-term health insurance policy that is issued on a nonrenewable basis for no more than a six-month term may impose a preexisting conditions provision subject to the following conditions:

1. the provision cannot exclude coverage beyond 12 months following the insured's effective date of coverage;

2. the provision may only relate to conditions, physical or mental, for which medical advice, diagnosis, care, or treatment was recommended or received during the 24-month period before the effective date of coverage; and
3. the policy and any related application or sales brochure must contain a conspicuous notice in at least 14-point boldface type that reads:

"This policy excludes coverage for conditions for which medical advice, diagnosis, care or treatment was recommended or received during the twenty-four months immediately preceding the effective date of coverage."

If an insurer or HMO issues consecutive short-term policies on a nonrenewable basis for up to six months to the same individual, the insurer or HMO must reduce the preexisting conditions exclusion period under the subsequent policy by the period of time the person was covered under the previous policy or policies.

The Connecticut Insurance Department recently interpreted the state law with respect to short-term health insurance policies in [Bulletin HC-121](#) (dated August 9, 2018). In doing so, the department stated that any renewable short-term plan and any short-term plan that is issued for longer than a six-month term cannot exclude coverage for preexisting conditions.

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