

WEST VIRGINIA INFORMATIONAL LETTER

NO. 96

MAY, 1996

TO: All Insurance Companies Licensed To Do Business In The State of West Virginia, Insurance Trade Associations, Insurance Media Publications and All Other Interested Persons

The purpose of this Informational Letter is to briefly summarize significant insurance legislation enacted during the 1996 regular session of the West Virginia Legislature. This letter is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumers, nor should it be construed as a comprehensive explanation of the bills addressed. Rather, it is intended to highlight the more important bills.

Persons seeking a copy of particular legislation should contact the West Virginia Legislature, Senate Clerks Office 304/357-7800, or House Clerks Office 304/340-3200, Main Unit, State Capitol, Charleston, West Virginia 25305.

SUMMARY OF 1996 LEGISLATION

S.B. 171 -- Authorization of Administrative Regulations

This bill authorizes the promulgation of the following administrative rules: Actuarial Opinion and Memorandum Rule; Examiners Compensation, Qualifications and Classification; Excess Line Brokers; Continuing Education for Insurance Agents; Recognizing Mortality Tables for Use in Determining Reserve Liability for Annuities; Substandard Risk Motor Vehicle Insurance Notice Requirements; Minimum Reserve Standards for Individual and Group Health Insurance Contracts; and Filing Procedures for Health Maintenance Organizations.

This bill became **effective March 7, 1996.**

S.B. 303 -- Life Products with a Face Value of \$25,000 or Less

This bill requires companies to provide a written notice to prospective purchasers of individual life insurance policies with a face value of twenty-five thousand dollars (\$25,000) or less. This notice is to be on a form established by the Insurance Commissioner. The notice must state that the total premiums paid by a purchaser may at some point in the future exceed the death benefits of his or her policy. It must be provided to the person at the time the policy is delivered.

Exempted from this bill's provisions are: mass market life products; life products used exclusively to fund preneed burial contracts and life insurance policies for which the total premiums paid by the purchaser will not at any time exceed the death benefit.

This bill becomes **effective October 1, 1996.**

S.B. 312 -- Coverage of Diabetes

This bill requires that certain equipment and supplies in the treatment and management of diabetes be covered in major medical policies or similar comprehensive-type medical coverage. Coverage for diabetes self-management education is also mandated. Education may be provided by a treating physician, a licensed pharmacist, a certified diabetes educator or a registered dietitian.

S.B. 312 (continued)

These provisions apply to all individual and group accident and sickness policies. Hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations are also required to comply.

This bill becomes **effective June 7, 1996.**

S.B. 332 -- Medicare Supplement Policies

This bill amends the definition of "Medicare supplement policy" in W.Va. Code, Chapter 33, Article 28, Section b, to correspond with those changes in the Social Security Act Amendments of 1994 (SSAA-94) establishing new federal minimum standards for such policies. The definition, as amended by the bill, eliminates the exemption for Section 1833 plans, commonly known as health care prepayment plans (HCPPs), unless the plans are employer or union based or issued pursuant to a conversion privilege when the policy or contract is inconsistent with the provisions of the statute.

This bill becomes **effective June 6, 1996.**

S.B. 465 -- Emergency Services

This bill mandates that effective July 1, 1996, emergency services must be covered in all group accident and sickness policies. A definition as to what constitutes "emergency services" is provided. Deductibles and coinsurance may be applied to emergency services. Preauthorization or precertification is not required when seeking covered emergency services.

Hospital service corporations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations are also required to comply.

This bill becomes **effective June 5, 1996.**

H.B. 4112 -- Mergers

This bill eliminates the restriction that, upon merger between a farmers mutual fire insurance company and a domestic mutual insurer, the domestic mutual insurer must be the surviving entity.

This bill became **effective March 15, 1996.**

HB. 4160 -- Notice and Disbursement of Insurance Proceeds

This bill imposes a notification requirement on companies which provide fire and marine insurance. When a claim has been made for a total loss to a structure located in this State, the municipality or county, in which the structure is located, must be informed of any coverage in the insurance policy providing cleanup and removal of the structure.

Companies shall not pay out any proceeds on a total loss until they receive certification that the removal of the structures debris and remains has occurred. If within six months of the date of loss, the companies receive certification that the expenses for removal and cleanup have been incurred by a municipality, county or other governmental entity, then the removal and cleanup proceeds shall be paid to that respective entity.

This bill becomes **effective June 7, 1996.**

H.B. 4207 -- West Virginia EMO Guaranty Association

This bill creates the West Virginia Health Maintenance Organization Guaranty Association. All health maintenance organizations (hereafter referred to as HMOs) are required to be members of this association. A board of directors is established with each HMO entitled to one vote. The board of directors works under the Insurance Commissioners direct supervision.

When an HMO becomes insolvent, the association appoints an HMO or, when appropriate, HMO s to enroll those individuals covered under the insolvent HMO. An HMO enrolls those individuals under its own contract containing benefits comparable to those the individuals had under the insolvent HMOS contract.

Exempted from coverage under this association are Medicaid recipients enrolled in an HMO. Any HMOs whose enrollment population is one hundred (100) percent Medicaid is exempted from this legislation.

Each HMO must pay to the association an initial assessment fee of five thousand dollars (\$5,000). When the association deems it necessary to obtain additional funds to pay administrative expenses, the association may make further assessments.

The association must submit to the Insurance Commissioner a proposed plan of operation. The association has within one hundred and eighty (180) days from the

H.B. 4207 (continued)

effective date of this legislation in which to submit the plan to the Insurance Commissioner for approval.

Exempted from participation in this association are HMOs whose enrollment population is one hundred percent (100%) medicaid.

This bill became **effective March 9, 1996.**

HB. 4387 -- NAIC Accreditation Legislation (Credit for Reinsurance)

This bill allows the Insurance Commissioner to apply existing standards that apply to life reinsurance agreements or contracts to reinsurance agreements or contracts dealing with accident and sickness insurance. These standards apply to reinsurance agreements or contracts utilized by both life insurers writing accident and sickness insurance and property and casualty insurers writing accident and sickness insurance. The Insurance Commissioner is to promulgate a regulation to administer this legislation by July 1, 1996.

This bill became effective May 15, 1996.

H.B. 4388 -- Replacement of Life Insurance

This bill replacing insureds Insurance amount of amount of mandates that new life insurance issued by a company cannot be contestable, in the event of any death, to any greater extent than the existing policy. This provision does not apply to that replacing insurance written which exceeds the existing life insurance.

The insured is granted a thirty (30) day free look on the replacing policy.

Annuities and individual and group credit life insurance are exempted from this legislation.

This bill became **effective May 14, 1996.**

H.B. 4490 -- Auto Cancellation Notice

This bill requires the insurance company to use either registered or certified mail when sending an insured a notice of cancellation on an automobile liability policy.

This bill becomes **effective June 7, 1996.**

H.B. 4511 -- Health Maintenance Organization

This bill adds some significant amendments to the current Health Maintenance Organization (hereafter referred to as HMO) law.

Whenever there is a change in the membership of the governing body of an HMO or its officers or persons holding five (5%) percent or more of the common stock, certain documentation must be submitted advising the Insurance Commissioner of the persons identities, financial interests and other pertinent biographical information.

A new requirement is added as a consideration in the issuance and maintaining of an HMOs certificate of authority. Effective May 1, 1998, an HMO who has been in existence for three years must submit a quality assurance report conducted by a nationally accredited organization. The Insurance Commissioner is to determine whether the HMO has met quality assurance standards which he will set forth by rule and regulation. If the Insurance Commissioner determines that the HMO is deficient in any significant quality assurance area, he may establish a corrective action plan that the HMO must follow as a condition of certification.

Whether an HMO possesses the proper standards for utilization review is also a consideration in issuing a certificate of authority. These standards are to be developed by the Commissioner through regulation.

An HMO must maintain a blanket fidelity bond covering all directors, officers, managers and employees who collect, disburse or invest funds for the organization.

The provision, restricting the percentage of Medicaid and Medicare subscribers an HMO may enroll, is eliminated.

An HMO, properly licensed in a reciprocal state to provide health care services to employer groups and resident West Virginians are members of these groups, does not have to seek licensure in West Virginia. This bill deems "reciprocal state" as a state which physically borders West Virginia and whose hold harmless requirements are basically the same as this States.

An HMO is exempt from paying municipal business and occupational taxes through December 31, 1996. The Commissioner and the Tax Department are to conduct a study on the appropriateness of imposing this tax on the HMOs. Their findings are to be presented to the 1997 Legislature.

H.B. 4511 (continued)

The Commissioner is to promulgate rules regulating the HMOs contracting for emergency medical services.

The Commissioner is to develop a proposal for legislation providing standards for the establishment and operation of rural health maintenance organizations. This proposal is to be presented to the Legislative Joint Committee on Government and Finance no later than January 15, 1977.

The bill becomes **effective June 7, 1996.**

HB. 4853 -- The Priority of Distribution of Claims

This bill rearranges the order of the distribution classes for claims against insolvent dental service corporations, hospital service corporations, health service corporations and medical service corporations so that the classes comply with the 1994 United States Supreme Court decision in United States Department of Treasury vs. Face.

This legislation is retroactively applied to all claims filed in any of the above liquidation proceedings pending on the effective date of this bill.

This bill became **effective March 9, 1996.**