

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

3

SENATE BILL 622
Insurance Committee Substitute Adopted 5/10/93
Third Edition Engrossed 5/12/93

Short Title: Misc. Health Ins. Amendments.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE MISCELLANEOUS AMENDMENTS TO LAWS GOVERNING
HEALTH INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-3-150(b) reads as rewritten:

"(b) ~~As~~ With respect to group and blanket accident and health ~~insurance and~~
~~insurance,~~ group life insurance—insurance, and group annuity policies issued and
delivered to a trust or to an association outside of this State and covering persons
resident in this State, the group certificates to be delivered or issued for delivery in this
State shall be filed with and approved by the Commissioner pursuant to subsection (a)
of this section."

Sec. 2. Article 3 of Chapter 58 of the General Statutes is amended by adding
a new section to read:

"§ 58-3-170. Requirements for maternity coverage.

(a) Every entity providing a health benefit plan that provides maternity coverage
in this State shall provide benefits for the necessary care and treatment related to
maternity that are no less favorable than benefits for physical illness generally.

(b) As used in this section, 'health benefit plans' means accident and health
insurance policies or certificates; nonprofit hospital or medical service corporation
contracts; health, hospital, or medical service corporation plan contracts; health

1 maintenance organization (HMO) subscriber contracts; and plans provided by a MEWA
2 or plans provided by other benefit arrangements, to the extent permitted by ERISA."

3 Sec. 3. G.S. 58-58-145 reads as rewritten:

4 **"§ 58-58-145. Group annuity contracts defined; requirements.**

5 Any policy or contract, except a joint, reversionary or survivorship annuity contract,
6 whereby annuities are payable ~~dependent upon the continuation of the lives of to~~ more
7 than one person, ~~shall be deemed is~~ a group annuity contract. The person, firm or
8 corporation to whom or to which such contract is issued, as herein provided, ~~shall be~~
9 ~~deemed is~~ the holder of ~~such the~~ contract. The term 'annuitant' as ~~used herein, refers to~~
10 means any person upon whose continued life such annuity is dependent. to whom or
11 which payments are made under the group annuity contract. No authorized insurer shall
12 deliver or issue for delivery in this State any group annuity contract except upon a group
13 of annuitants ~~which that~~ conforms to the following: under a contract issued to an
14 employer, or to the trustee of a fund established by an employer or two or more
15 employers in the same industry or kind of business, the stipulated payments on which
16 shall be paid by the holder of such contract either wholly from the employer's funds or
17 funds contributed by him, or partly from such funds and partly from funds contributed
18 by the employees covered by such contract, and providing a plan of retirement annuities
19 under a plan which permits all of the employees of such employer or of any specified
20 class or classes thereof to become annuitants. Any such group of employees may
21 include retired employees, and may include officers and managers as employees, and
22 may include the employees of subsidiary or affiliated corporations of a corporation
23 employer, and may include the individual proprietors, partners and employees of
24 affiliated individuals and firms controlled by the holders through stock ownership,
25 contract or otherwise."

26 Sec. 4. G.S. 58-51-15(a) reads as rewritten:

27 "(a) Required Provisions. – Except as provided in subsection (c) of this section
28 each such policy delivered or issued for delivery to any person in this State shall contain
29 the provisions specified in this subsection in the substance of the words that appear in
30 this section. Such provisions shall be preceded individually by the caption appearing in
31 this subsection or, at the option of the insurer, by such appropriate individual or group
32 captions or subcaptions as the Commissioner may approve.

33 (1) A provision in the substance of the following language:

34 ENTIRE CONTRACT; CHANGES: This policy, including the
35 endorsements and the attached papers, if any, constitutes the entire
36 contract of insurance. No change in this policy shall be valid until
37 approved by an executive officer of the insurer and unless such
38 approval be endorsed hereon or attached hereto. No agent has authority
39 to change this policy or waive any of its provisions.

40 (2) A provision in the substance of the following language:

41 TIME LIMIT ON CERTAIN DEFENSES:

42 a. After two years from the date of issue or reinstatement of this
43 policy no misstatements except fraudulent misstatements made
44 by the applicant in the application for such policy shall be used

1 to void the policy or deny a claim for loss incurred or disability
 2 (as defined in the policy) commencing after the expiration of
 3 such two-year period.

4 The foregoing policy provisions may be used in its entirety
 5 only in major or catastrophe hospitalization policies and major
 6 medical policies each affording benefits of five thousand dollars
 7 (\$5,000) or more for any one sickness or injury. Disability
 8 income policies affording benefits of one hundred dollars
 9 (\$100.00) or more per month for not less than 12 months and
 10 franchise policies. Other policies to which this section applies
 11 must delete the words 'except fraudulent misstatements.'

12 (The foregoing policy provision shall not be so construed as to
 13 affect any legal requirement for avoidance of a policy or denial of a
 14 claim during such initial two-year period, nor to limit the application
 15 of G.S. 58-51-15(b), (1), (2), (3), (4) and (5) in the event of
 16 misstatement with respect to age or occupation or other insurance.)

17 (A policy which the insured has the right to continue in
 18 force subject to its terms by the timely payment of premium:

- 19 1. Until at least age 50 or,
- 20 2. In the case of a policy issued after age 44, for at least
 21 five years from its date of issue, may contain in lieu of
 22 the foregoing the following provisions (from which the
 23 clause in parentheses may be omitted at the insurer's
 24 option) under the caption 'INCONTESTABLE.'

25 After this policy has been in force for a period of two
 26 years during the lifetime of the insured (excluding any period
 27 during which the insured is disabled), it shall become
 28 incontestable as to the statements contained in the application.)

- 29 b. No claim for loss incurred or disability (as defined in the
 30 policy) commencing after two years from the date of issue of
 31 this policy shall be reduced or denied on the ground that a
 32 disease or physical condition not excluded from coverage by
 33 name or specific description effective on the date of loss had
 34 existed prior to the effective date of coverage of this policy.

- 35 (3) A provision in the substance of the following language:

36 GRACE PERIOD: A grace period of (insert a number not
 37 less than '7' for weekly premium policies, '10' for monthly premium
 38 policies and '31' for all other policies) days will be granted for the
 39 payment of each premium falling due after the first premium, during
 40 which grace period the policy shall continue in force.

41 (A policy which contains a cancellation provision may add, at the
 42 end of the above provision, subject to the right of the insurer to cancel
 43 in accordance with the cancellation provision hereof.

1 A policy in which the insurer reserves the right to refuse any
2 renewal shall have, at the beginning of the above provision,

3 Unless not less than five days prior to the premium due date the
4 insurer has delivered to the insured or has mailed to his last address as
5 shown by the record of the insurer written notice of its intention not to
6 renew this policy beyond the period for which the premium has been
7 accepted.)

8 (4) A provision in the substance of the following language:

9 REINSTATEMENT: If any renewal premium be not paid within
10 the time granted the insured for payment, a subsequent acceptance of
11 premium by the insurer or by any agent duly authorized by the insurer
12 to accept such premium, without requiring in connection therewith an
13 application for reinstatement, shall reinstate the policy; provided,
14 however, that if the insurer or such agent requires an application for
15 reinstatement and issues a conditional receipt for the premium
16 tendered, the policy will be reinstated upon approval of such
17 application by the insurer, or, lacking such approval, upon the forty-
18 fifth day following the date of such conditional receipt unless the
19 insurer has previously notified the insured in writing of its disapproval
20 of such application. The reinstated policy shall cover only loss
21 resulting from such accidental injury as may be sustained after the date
22 of reinstatement and loss due to such sickness as may begin more than
23 10 days after such date. In all other respects the insured and insurer
24 shall have the same rights thereunder as they had under the policy
25 immediately before the due date of the defaulted premium, subject to
26 any provisions endorsed hereon or attached hereto in connection with
27 the reinstatement. Any premium accepted in connection with a
28 reinstatement shall be applied to a period for which premium has not
29 been previously paid, but not to any period more than 60 days prior to
30 the date of reinstatement.

31 (The last sentence of the above provision may be omitted from any
32 policy which the insured has the right to continue in force subject to its
33 terms by the timely payment of premiums:

- 34 a. Until at least age 50 or,
35 b. In the case of a policy issued after age 44, for at least five years
36 from its date of issue.)

37 (5) A provision in the substance of the following language:

38 NOTICE OF CLAIM: Written notice of claim must be given to the
39 insurer within 20 days after the occurrence or commencement of any
40 loss covered by the policy, or as soon thereafter as is reasonably
41 possible. Notice given by or on behalf of the insured or the beneficiary
42 to the insurer at (insert the location of such office as the insurer
43 may designate for the purpose), or to any authorized agent of the

insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.)

(6) A provision in the substance of the following language:

CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(7) A provision in the substance of the following language:

PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(8) A provision in the substance of the following language:

TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any period payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all

1 accrued indemnities for loss for which this policy provides periodic
2 payment will be paid (insert period for payment which must not be
3 less frequently than monthly) and any balance remaining unpaid upon
4 the termination of liability will be paid immediately upon receipt of
5 due written proof.

- 6 (9) A provision in the substance of the following language:

7 PAYMENT OF CLAIMS: Indemnity for loss of life will be
8 payable in accordance with the beneficiary designation and the
9 provisions respecting such payment which may be prescribed herein
10 and effective at the time of payment. If no such designation or
11 provision is then effective, such indemnity shall be payable to the
12 estate of the insured. Any other accrued indemnities unpaid at the
13 insured's death may, at the option of the insurer, be paid either to such
14 beneficiary or to such estate. All other indemnities will be payable to
15 the insured.

16 (The following provisions, or either of them, may be included with
17 the foregoing provision at the option of the insurer:

18 If any indemnity of this policy shall be payable to the estate of the
19 insured, or to an insured or beneficiary who is a minor or otherwise not
20 competent to give a valid release, the insurer may pay such indemnity,
21 up to an amount not exceeding \$..... (insert an amount which shall
22 not exceed ~~one~~ three thousand dollars (~~\$1,000~~) (\$3,000)), to any
23 relative by blood or connection by marriage of the insured or
24 beneficiary who is deemed by the insurer to be equitably entitled
25 thereto. Any payment made by the insurer in good faith pursuant to
26 this provision shall fully discharge the insurer to the extent of such
27 payment.

28 Subject to any written direction of the insured in the application or
29 otherwise all or a portion of any indemnities provided by this policy on
30 account of hospital, nursing, medical, or surgical services, may at the
31 insurer's option and unless the insured requests otherwise in writing
32 not later than the time of filing proofs of such loss, be paid directly to
33 the hospital or person rendering such services; but it is not required
34 that the service be rendered by a particular hospital or person.)

- 35 (10) A provision in the substance of the following language:

36 PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at
37 its own expense shall have the right and opportunity to examine the
38 person of the insured when and as often as it may reasonably require
39 during the pendency of a claim hereunder and to make an autopsy in
40 case of death where it is not forbidden by law.

- 41 (11) A provision in the substance of the following language:

42 LEGAL ACTIONS: No action at law or in equity shall be brought
43 to recover on this policy prior to the expiration of 60 days after written
44 proof of loss has been furnished in accordance with the requirements

1 of this policy. No such action shall be brought after the expiration of
2 three years after the time written proof of loss is required to be
3 furnished.

4 (12) A provision in the substance of the following language:

5 CHANGE OF BENEFICIARY: Unless the insured makes an
6 irrevocable designation of beneficiary, the right to change of
7 beneficiary is reserved to the insured and the consent of the beneficiary
8 or beneficiaries shall not be requisite to surrender or assignment of this
9 policy or to any change of beneficiary or beneficiaries, or to any other
10 changes in this policy.

11 (The first clause of this provision, relating to the irrevocable
12 designation of beneficiary, may be omitted at the insurer's option.)"
13 Sec. 4.1. Article 51 of Chapter 58 of the General Statutes is amended
14 by adding the following new section to read:

15 **"§ 58-51-58. Coverage of certain prescribed drugs for cancer treatment.**

16 (a) No policy or contract of accident or health insurance, and no preferred
17 provider contract, policy, or plan as defined and regulated under G.S. 58-50-50 and G.S.
18 58-50-55, that is issued, renewed, or amended on or after January 1, 1994, and that
19 provides coverage for prescribed drugs approved by the federal Food and Drug
20 Administration for the treatment of certain types of cancer shall exclude coverage of
21 any drug on the basis that the drug has been prescribed for the treatment of a type of
22 cancer for which the drug has not been approved by the federal Food and Drug
23 Administration. The drug, however, must be approved by the federal Food and Drug
24 Administration and must be recognized for the treatment of the specific type of cancer
25 for which the drug has been prescribed in any one of the following established reference
26 compendia:

27 (1) The American Medical Association Drug Evaluations;

28 (2) The American Hospital Formulary Service Drug Information; or

29 (3) The United States Pharmacopeia Drug Information; or recommended
30 by review article or editorial comment in a major peer-reviewed
31 professional journal published in the United States.

32 (b) Notwithstanding subsection (a) of this section, coverage shall not be required
33 for any experimental or investigational drugs or any drug that the federal Food and Drug
34 Administration has determined to be contraindicated for treatment of the specific type of
35 cancer for which the drug has been prescribed.

36 (c) This section shall apply only to cancer drugs and nothing in this section shall
37 be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge,
38 abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease
39 or condition."

40 Sec. 4.2. Article 54 of Chapter 58 of the General Statutes is amended by
41 adding the following new section to read:

42 **"§ 58-54-11. Coverage of certain prescribed drugs for cancer treatment.**

43 (a) No policy that is issued, renewed, or amended on or after January 1, 1994,
44 and that provides coverage for prescribed drugs approved by the federal Food and Drug

1 Administration for the treatment of certain types of cancer shall exclude coverage of
2 any drug on the basis that the drug has been prescribed for the treatment of a type of
3 cancer for which the drug has not been approved by the federal Food and Drug
4 Administration. The drug, however, must be approved by the federal Food and Drug
5 Administration and must be recognized for the treatment of the specific type of cancer
6 for which the drug has been prescribed in any one of the following established reference
7 compendia:

8 (1) The American Medical Association Drug Evaluations;

9 (2) The American Hospital Formulary Service Drug Information; or

10 (3) The United States Pharmacopeia Drug Information; or recommended
11 by review article or editorial comment in a major peer-reviewed
12 professional journal published in the United States.

13 (b) Notwithstanding subsection (a) of this section, coverage shall not be required
14 for any experimental or investigational drugs or any drug that the federal Food and Drug
15 Administration has determined to be contraindicated for treatment of the specific type of
16 cancer for which the drug has been prescribed.

17 (c) This section shall apply only to cancer drugs and nothing in this section shall
18 be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge,
19 abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease
20 or condition."

21 Sec. 4.3. Article 65 of Chapter 58 of the General Statutes is amended by
22 adding the following new section to read:

23 **"§ 58-65-93. Coverage of certain prescribed drugs for cancer treatment.**

24 (a) No insurance certificate or subscriber contract under any hospital service plan
25 or medical service plan governed by this Article and Article 66 of this Chapter, and no
26 preferred provider contract, policy, or plan as defined and regulated under G.S. 58-50-
27 50 and G.S. 58-50-55, that is issued, renewed, or amended on or after January 1, 1994,
28 and that provides coverage for prescribed drugs approved by the federal Food and Drug
29 Administration for the treatment of certain types of cancer shall exclude coverage of
30 any drug on the basis that the drug has been prescribed for the treatment of a type of
31 cancer for which the drug has not been approved by the federal Food and Drug
32 Administration. The drug, however, must be approved by the federal Food and Drug
33 Administration and must be recognized for the treatment of the specific type of cancer
34 for which the drug has been prescribed in any one of the following established reference
35 compendia:

36 (1) The American Medical Association Drug Evaluations;

37 (2) The American Hospital Formulary Service Drug Information; or

38 (3) The United States Pharmacopeia Drug Information; or recommended
39 by review article or editorial comment in a major peer-reviewed
40 professional journal published in the United States.

41 (b) Notwithstanding subsection (a) of this section, coverage shall not be required
42 for any experimental or investigational drugs or any drug that the federal Food and Drug
43 Administration has determined to be contraindicated for treatment of the specific type of
44 cancer for which the drug has been prescribed.

1 (c) This section shall apply only to cancer drugs and nothing in this section shall
2 be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge,
3 abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease
4 or condition."

5 Sec. 4.4. Article 67 of Chapter 58 of the General Statutes is amended by
6 adding the following new section to read:

7 "**§ 58-67-77. Coverage of certain prescribed drugs for cancer treatment.**

8 (a) No health care plan written by a health maintenance organization and in
9 force, issued, renewed, or amended on or after January 1, 1994, and that provides
10 coverage for prescribed drugs approved by the federal Food and Drug Administration
11 for the treatment of certain types of cancer shall exclude coverage of any drug on the
12 basis that the drug has been prescribed for the treatment of a type of cancer for which
13 the drug has not been approved by the federal Food and Drug Administration. The
14 drug, however, must be approved by the federal Food and Drug Administration and
15 must be recognized for the treatment of the specific type of cancer for which the drug
16 has been prescribed in any one of the following established reference compendia:

17 (1) The American Medical Association Drug Evaluations;

18 (2) The American Hospital Formulary Service Drug Information; or

19 (3) The United States Pharmacopeia Drug Information; or recommended
20 by review article or editorial comment in a major peer-reviewed
21 professional journal published in the United States.

22 (b) Notwithstanding subsection (a) of this section, coverage shall not be required
23 for any experimental or investigational drugs or any drug that the federal Food and Drug
24 Administration has determined to be contraindicated for treatment of the specific type of
25 cancer for which the drug has been prescribed.

26 (c) This section shall apply only to cancer drugs and nothing in this section shall
27 be construed, expressly or by implication, to create, impair, alter, limit, notify, enlarge,
28 abrogate, or prohibit reimbursement for drugs used in the treatment of any other disease
29 or condition.'

30 Sec. 4.5. Article 50 of Chapter 58 of the General Statutes is amended by
31 adding the following new section to read:

32 "**§ 58-50-156. Coverage of certain prescribed drugs for cancer treatment.**

33 (a) Notwithstanding G.S. 58-50-125(c), if the standard health plan developed and
34 approved under G.S. 58-50-125 provides coverage for prescribed drugs approved by the
35 federal Food and Drug Administration for the treatment of certain types of cancer, then
36 coverage may not be excluded for any drug on the basis that the drug has been
37 prescribed for the treatment of a type of cancer for which the drug has not been
38 approved by the federal Food and Drug Administration. Coverage for such drugs shall
39 be as required under G.S. 58-51-58."

40 Sec. 5. This act becomes effective October 1, 1993.