

**Agenda Item 2. Review and consider Public Comments on additional revisions to §5. REHABILITATION PROVISIONS of the draft GROUP DISABILITY INCOME INSURANCE POLICY AND CERTIFICATE UNIFORM STANDARDS FOR EMPLOYER GROUPS.**

The PSC reviewed the Industry Advisory Committee (IAC) comments related to concerns that participation in rehabilitation could be considered voluntary if a *Covered Person* pays “any expenses” associated with rehabilitation plan. The Committee agreed to the following revision (in bold) to 2(b), using examples of incidental expenses provided by the IAC, and also to remove reference to the word “any” modifying expenses in 2(d):

**b) The certificate may state ~~that the insurance company may also agree to fund, directly or indirectly, most or all of the extent to which the insurance company is paying~~ the expenses associated with a rehabilitation plan in which a *Covered Person* is participating. ~~in good faith. If the insurance company requires the *Covered Person* to pay any expenses other than ancillary, de minimis expenses such as mileage, internet access or meals associated with a rehabilitation plan, the *Covered Person's* participation in the rehabilitation plan shall be voluntary.~~**

The PSC discussed the written comments from the IAC as well as the discussion on the public call related to the IAC’s suggestion to add a sentence to 2(d) to clarify that the insurance company is not bound by the opinion of the *Covered Person's* treating *Physician*. Regulators echoed the comments they raised on the Public call that they would like some provision within the standard that allows for a form of “tie breaker” in the event that there are conflicting medical opinions. The Committee reviewed language in the Additional Standards for Accelerated Death Benefits that contained a similar concept and agreed to the following revisions (in bold) to 2(d):

**d) The certificate shall state that nonparticipation in a rehabilitation plan shall not affect the insurance company’s determination of whether a *Covered Person* is *Disabled*. However, ~~unless the insurance company requires the covered person to pay any expenses associated with a rehabilitation as described in (b) above,~~ an insurance company may include a provision indicating that failure to participate in a rehabilitation plan, without good cause (where “good cause” means a medical reason documented by the *Covered Person's* treating *Physician* preventing implementation of the rehabilitation plan), may result in the reduction or cessation of the *Covered Person's* right to *Disability* benefits, in a manner specified in the certificate. **In the determination of “good cause,” the certificate shall state that the insurance company shall consider the opinion of the *Covered Person's* treating *Physician* but reserves the right to make the determination based on the medical opinion of a *Physician* retained by the insurance company. In the case of conflicting opinions, at the request of the *Covered Person* the insurance company shall make its determination based on a third medical opinion from a *Physician* that is mutually acceptable to the *Covered Person* and the insurance company.****

### **Agenda Item 3. Review and consider Public Comments on § 6. OPTIONAL PROVISIONS**

- **C. Authority.** The PSC reviewed the IAC's comment related to the use of the words "initial determination." The Committee agreed to the Industry's suggested revision with the additional change requested by a member of the PSC of substituting the word "understands" for the word "agrees."

The policy and certificate may state that the policyholder has delegated to the insurance company and agrees understands that the insurance company reserves the right to make determinations regarding the eligibility for participation or benefits and to interpret the terms of the policy and certificate for the purpose of administering the terms of the policy and certificate.

- **H. Procedures For Review of a Denial of a Claim and proposed §4 Claims Provisions to require Procedures for Review of Claim Determinations.** The PSC agreed with the Industry's recommendations to reinstate Optional Provision H. Procedures For Review of a Denial of a Claim and delete the proposed addition of Procedures for Review of Claim Determinations in § 4 Required Provisions A. Claim Provisions. They also agreed with the IIPRC staff recommendation to add a drafting note indicating that a determination of ERISA compliance is outside the scope of the IIPRC review.
- **J. Subrogation Rights.** The PSC reviewed the revised comments from the IAC noting that no insurer deducts anticipated recovery, therefore they are not opposed to the added language. They also reviewed the written comments submitted by members of the Consumer Advisory Committee (CAC) explaining that the right of subrogation arises only when an insurer makes a payment on a loss which is the responsibility of a third party. Based on the comments, the PSC agreed that the sentence referencing anticipated recovery from a third party was unnecessary and should be stricken.

### **Agenda Item 4. Review Group Disability Income Subgroup recommendations for § 7. PERMISSIBLE LIMITATIONS OR EXCLUSIONS.**

The PSC agreed to the recommendations of the Subgroup for revisions to this Section. It was noted that the Subgroup asked the PSC to consider whether to delete herniated or ruptured discs not requiring surgery from the list of Specified Conditions under §7 (6). The PSC agreed that these conditions should not be included as conditions that may be limited under this provision. The PSC agreed to expose §7 for Public comments.

### **Agenda Item 5. Review Group Disability Income Subgroup recommendations for § 8. PROHIBITED LIMITATIONS AND EXCLUSIONS.**

The PSC agreed with the Subgroup's recommendation not to make any revisions to this Section of the draft and to expose it for Public comments.

**Agenda Item 6. Review Group Disability Income Subgroup recommendations for § 9. BENEFIT PROVISIONS.**

The PSC agreed with the Subgroup's recommended revisions to this Section of the draft. They also discussed the comments that the CAC members submitted regarding Estimated Benefits under (2) Disability Benefits Reduced on Account of Other Benefits or Income. Members agreed with the CAC's observation that items that are not first party benefits that the *Covered Person* is either eligible for or entitled to upon timely application should not be included as benefits that may be estimated. The PSC agreed to the following revision (in bold) to the estimated benefits provision:

*Estimate of Benefits or Income.* The certificate ~~shall~~ may state that if a *Covered Person* is eligible for such benefits or income ~~from any of the sources specified above except retirement plans, or if it is reasonable for the insurance company to believe that a Covered Person would receive such benefits or income if the Covered Person made timely application for such benefits or income,~~ the insurance company reserves the right to reduce ~~shall determine~~ the *Disability* benefit available under the certificate as if the *Covered Person* is receiving such benefits or income, ~~even if this is not the case.~~ Such reduction shall not be permissible if the Covered Person provides evidence of application for benefits and agrees in writing to repay any overpayment. Benefits or income from a retirement plan, auto liability, no-fault vehicle insurance, or third-party settlements shall not be subject to estimation.

The PSC agreed to expose § 9 for Public comments.

**Agenda Item 7. Any Other Matters**

The Chair reminded members that there would be a Public call of the PSC on Tuesday March 24, 2015 at 1:30 pm ET / 12:30 pm CT / 11:30 am MT / 10:30 am PT to receive Public Comments on additional revisions as discussed on today's call to §5. REHABILITATION PROVISIONS and § 6. OPTIONAL PROVISIONS of the draft GROUP DISABILITY INCOME INSURANCE POLICY AND CERTIFICATE UNIFORM STANDARDS FOR EMPLOYER GROUPS and to receive Public Comments on § 7. PERMISSIBLE LIMITATIONS OR EXCLUSIONS, § 8. PROHIBITED LIMITATIONS AND EXCLUSIONS and § 9. BENEFIT PROVISIONS. The Subgroup will meet March 17<sup>th</sup> to begin discussions of § 10 INCIDENTAL BENEFIT PROVISIONS.