

Agenda Item 2. Receive updated report from the Group Disability Income Subgroup of the Product Standards Committee regarding the status of drafting of Group Disability Income Uniform Standards.

Jason Lapham, Kansas, Chair of the Product Standards Committee (PSC), provided an update on the work of the Group Disability Income Subgroup. The Subgroup meets weekly with the focus of the calls to date on the development of the Core Group Disability Income Insurance Policy and Certificate Uniform Standards for Employer Groups. The PSC had a Public Call on February 24th to hear public comments on §5. REHABILITATION PROVISIONS and § 6. OPTIONAL PROVISIONS. The Committee then met in a member only session to consider those comments. The call today will consider public comments on these revisions. The Subgroup has now completed revisions to § 7. PERMISSIBLE LIMITATIONS OR EXCLUSIONS, § 8. PROHIBITED LIMITATIONS AND EXCLUSIONS and § 9. BENEFIT PROVISIONS and the PSC will receive public comments on the redlined draft of these provisions.

Agenda Item 3. Receive Public Comments on additional revisions to Items (2) (b) and (d) of §5. REHABILITATION PROVISIONS of the draft GROUP DISABILITY INCOME INSURANCE POLICY AND CERTIFICATE UNIFORM STANDARDS FOR EMPLOYER GROUPS.

The Chair noted that prior to the call, the IIPRC office distributed the redline draft of the Group Disability Income Uniform Standards which included recommendations for additional revisions to Items (2) (b) and (d) of §5. REHABILITATION PROVISIONS. There were no written comments received on this agenda item. Miriam Krol, ACLI, representing the Industry Advisory Committee, stated that she would submit revised comments and include objections to §5 (2)(d) and the additional language that in the case of conflicting opinions on whether a *Covered Person* is medically able to participate in a rehabilitation program, 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. Industry noted that they are aware that the language is similar to provisions included in the Accelerated Death Benefit standards; however for Accelerated Death Benefits, it is incidental to the product and for the life insurers it was feasible to contract with a mutually agreed upon physician. Ms. Krol noted that it may not be feasible for the Group Disability Income insurers. In addition, Industry believes that the language as proposed could establish a precedent for “external review” of whether or not one met the benefit triggers for Disability.

There were no further oral comments from other parties on this agenda item.

Agenda Item 4. Receive Public Comments on additional revisions to C. AUTHORITY H. PROCEDURES FOR REVIEW OF A DENIAL OF A CLAIM and J. SUBROGATION RIGHTS in § 6. OPTIONAL PROVISIONS.

The Chair noted that written comments related to §6 were received from the Industry Advisory Committee. Miriam Krol stated that the only comment they had was under H. PROCEDURES FOR REVIEW OF A DENIAL OF A CLAIM. Industry noted that Item (1) refers to “certificate” and items (2) and (3) refer to policy. Industry believes the references should all be to “certificate.”

The Chair asked the Consumer Advisory Committee if the revisions to SUBROGATION RIGHTS addressed their concerns. Fred Nepple, representing the Consumer Advisory Committee agreed that the revisions in this section were sufficient, but noted that they had further comments related to this issue when the PSC discusses §9 BENEFIT PROVISIONS.

There were no further oral comments from other parties on this agenda item.

Agenda Item 5. Receive Public Comments on § 7. PERMISSIBLE LIMITATIONS OR EXCLUSIONS.

Miriam Krol provided an overview of the industry's key written comments in this section. She noted that Industry opposes the proposed changes of the words "caused or contributed to by" to "results from" for each item in this section. Industry notes that "caused by or contributed to by" is the language currently in use in the majority of the states and is the standard by which the companies adjudicate group disability income claims today. It is broader than "results from," allowing the insurance companies the opportunity to exclude a condition if the pre-existing condition contributed to the additional condition in a meaningful and significant way. She stated that courts have consistently held that in order to connect two conditions by the "contributed to by" language, there must be a substantial basis for the connection. Industry requested the PSC consider the alternate wording "caused by or significantly contributed to by."

PSC members commented that the phrase "or contributed to by" was ambiguous. After some discussion PSC members agreed to consider revisions if it was clearly defined and stated in the certificate. The IAC agreed to provide suggested language for the PSC's consideration.

Under Item (5) Disability Not Verifiable by Objective Medical Means, Ms. Krol noted that the addition of a sentence that there can be no exclusion was not done for Item (6) Specified Conditions and that the PSC may wish to do so. She also questioned the reason for the addition of the definition of "verifiable by objective medical means." Mr. Lapham stated that the added language was based on how the Social Security Administration (SSA) determines disability and what they consider a "medically determinable impairment." He provided the definition from SSA that a medically determinable impairment is "an impairment that results from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques." He noted that the PSC added this language because the Industry stated in its drafting note that "Companies advise that item (5) may have its limitations since there are challenges in debating whether or not a condition is verifiable." After further discussion, the PSC agreed to consider additional language clarifying that the condition must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not just the *Covered Person's* statement of symptoms.

For Item (6) Specified Conditions, Ms. Krol stated that Industry has concerns about the companies' and the IIPRC's ability to add or delete medical conditions from this list in the future. She noted that the conditions included are those that are typically of a chronic nature and costly to a group insurance plan. Employers who want to provide affordable group disability income plans need the flexibility to exclude these types of conditions, and the list of these conditions may vary from employer to employer, and year to year. Ms Krol also asked what criteria were used to delete herniated or ruptured discs not requiring surgery and Lyme Disease and not the other conditions included. Mr. Lapham referred her to the Call Summaries and the update from the March 5, 2015 call that addresses the Subgroup's decision, noting that the revisions were consistent with policy forms that have been approved in the majority of states and that most forms the group reviewed did not include Lyme Disease nor herniated or ruptured discs. Industry suggested changing the second sentence of this provision to read "The specified conditions may be any one or more of the following."

For Item (10) Felony or Misdemeanor, Industry voiced opposition to deleting misdemeanor, noting several criminal offenses that could be considered misdemeanors. PSC members noted that no other IIPRC Uniform Standard allows losses resulting from misdemeanors to be limited or excluded, and noted several minor violations that are considered misdemeanors. The PSC rejected the Industry proposal to substitute the word "crime" for felony or misdemeanor. Members noted that other exclusions or

limitations such as those for Intoxicants, Illegal Occupation or Activity and Voluntary Intake of Narcotics or Other Controlled Substances appear to cover the conduct Industry wishes to limit or exclude.

For Item (19) Recreational Activity, Industry reiterated its concerns related to closed lists and the insurance companies' ability to add or delete activities from this list in the future. The Chair explained the regulators' concerns about open ended lists and the potential to add virtually anything. Without specificity in the standards, the IIPRC staff would have no basis to prohibit additions that did not meet the criteria for more extreme recreational activities. The PSC agreed to consider changing the first sentence to "from one or more of the following recreational activities."

Barbara Prentice from the Vermont Department of Insurance noted that Vermont has a mental health parity law that applies to Group Disability Income, so the state would oppose limitations or exclusions for mental health benefits, which include drug and alcohol treatment. She referenced 8 VSA 4062, 8 VSA 4089b, and HCA Bulletin 127 as the authority for the prohibition against such restrictions. The Chair asked for submission of written comments for the PSC's consideration.

There were no further oral comments from other parties on this agenda item.

Agenda Item 6. Receive Public Comments on § 8. PROHIBITED LIMITATIONS AND EXCLUSIONS.

There were no written comments on this section of the draft and no oral comments from any parties on this agenda item.

Agenda Item 7. Receive Public Comments on § 9. BENEFIT PROVISIONS

Fred Nepple of the Consumer Advisory Committee noted that the revisions to Disability Benefits Reduced On Account of Other Benefits or Income addressed some of the CAC's concerns but questioned why (g) auto liability or no-fault vehicle insurance and (n) any amounts received from any third party settlements were included since the standards allow Subrogation Rights. Ms. Krol stated that Subrogation was an optional provision. After further discussion, Ms. Krol agreed to work with the Consumer Advisory Committee to submit revisions for the PSC's consideration.

Ms. Krol stated that Industry was opposed to the revisions to Item B.(1)(f) Disability Benefits Reduced on Account of other Benefits or Income. She stated that (e) already addresses disability benefits under plans provided by the Covered Person's employer. The purpose of this provision is to prevent over-insurance and allow integration with other group plans, such as association plans, that are not provided by the employer. Members of the PSC noted that their concern was that it was unfair to deduct benefits from a person holding two jobs, both providing some level of disability benefits, when the individual was not being reimbursed more than his or her pre-disability earnings.

For Item B.(1)(k), the Industry noted that they believe that the word "paid" was intended to say "payable."

For Item B.(1)(m), Industry expressed opposition to the proposed changes, noting that the intent of the offset is to reduce benefits by an amount the *Covered Person* is capable of earning, but chooses not to earn. Ms. Krol noted that most states approve language that allows for "any earnings that you could receive if you were working to your maximum capacity."

For Item B.(3) Estimates of Benefits or Income the Industry suggested revised language stating "if the Covered Person is eligible for ~~such~~ the benefits or income specified in §9.B(1), the insurance company reserves the right..." Industry also requested adding language requiring reasonable pursuit of applications for benefits as follows: "Such reduction shall not be permissible if the Covered Person provides evidence of a timely application for the benefits and pursuit of the application with reasonable

diligence, and agrees in writing to repay any overpayment.” PSC members asked Industry to explain how a company determines “timely” and “reasonable diligence” since the language appears vague.

In the interest of time, PSC members were referred to the Industry Advisory Committee’s written comments for the remaining observations for their consideration. There were no further oral comments from other parties on this agenda item.

Agenda item 8. Any Other Matters

The Chair requested that if any parties have additional feedback, they submit written comments to comments@insurancecompact.org. He stated that the PSC will review the comments and consider the revisions to these sections of the Uniform Standards. The Group Disability Income Subgroup will finalize its review of § 10 INCIDENTAL BENEFIT PROVISIONS and the PSC will schedule another Public Call to discuss the recommendations.