

Regular Session, 2003

ACT No. 129

HOUSE BILL NO. 1466

BY REPRESENTATIVE HEBERT

AN ACT

To amend and reenact R.S. 22:213.6(A)(introductory paragraph), 213.7(A)(12), 215(A)(1)(introductory paragraph) and (a)(i) and (E), 215.4(A), 215.5(A) and (B), 215.7(A)(introductory paragraph), 215.9(A), 215.11(C), 215.15(A), 215.17(A)(1), 215.20(B), 215.21(A), 227(A) and (B), 228.7(A), 230.1(A), 652.3(A)(1), 669(A)(2)(a) and (3)(a), 1214(15)(c)(ii), 1460, and 1513(A)(4) and to repeal R.S. 22:215(A)(1)(c) and (4), relative to health insurance; to redesignate "franchise" coverage to "association" coverage; to provide for readjustment of rate premium; to provide relative to franchise health and accident rates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:213.6(A)(introductory paragraph), 213.7(A)(12), 215(A)(1)(introductory paragraph) and (a)(i) and (E), 215.4(A), 215.5(A) and (B), 215.7(A)(introductory paragraph), 215.9(A), 215.11(C), 215.15(A), 215.17(A)(1), 215.20(B), 215.21(A), 227(A) and (B), 228.7(A), 230.1(A), 652.3(A)(1), 669(A)(2)(a) and (3)(a), 1214(15)(c)(ii), 1460, and 1513(A)(4) are hereby amended and reenacted to read as follows:

§213.6. Prohibited discrimination; prenatal test results

A. No hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of

this type, including a group insurance plan, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, which delivers or issues for delivery in this state an insurance policy or plan shall, on the basis of any prenatal test result:

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§213.7. Prohibited discrimination; genetic information; disclosure requirements; definitions

A. As used in this Section, the following terms shall have the following meanings:

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(12) "Insurer" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, including insurance agents and third-party administrators, which delivers or issues for delivery in this state an insurance policy or plan.

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§215. Group, family group, blanket, and ~~franchise~~ association health and accident insurance

A. Any insurer authorized to write health and accident insurance in this state shall have power to issue policies described in this Section.

(1) Group health and accident insurance is any policy of health and accident insurance, or similar coverage issued by a health maintenance organization, covering more than one person, except family group, and blanket, ~~and franchise~~ policies hereinafter specifically provided for, which shall conform to the following requirements:

(a)(i) The policy shall be issued to an employer or association, or trustees of a fund established by an employer or association, who shall be deemed the policyholder, covering one or more employees of such employer or one or more ~~members or~~ employees of members of such association, for the benefit of persons other than the employer, or the association, its officers or trustees, upon some plan which will preclude individual selection.

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E. Any group, family group, blanket, ~~franchise~~ or association health and accident insurer, including a group health plan as defined by Section 607(1) of the Employee Retirement Income Security Act of 1974, self-insurance plan, health maintenance organization, nonprofit hospital or medical service organization, or the Office of Group Benefits, shall be prohibited from any consideration of the availability or eligibility for medical assistance in this or any other state, as mandated under federal law, as a requirement of eligibility for coverage or payment under its policy, plan, certificate, or agreement for its policyholders, enrollees, members, certificate holders, or their dependents.

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§215.4. Coverage of unmarried students

A.(1) Except as provided in Paragraph (2) of this Subsection, students who are unmarried children who have not yet attained the age of twenty-four and who are enrolled as full-time students at an accredited college or university, or at a vocational, technical, vocational-technical or trade school or institute, or secondary school, and who are dependent upon the primary insured under any group health and accident or ~~franchise~~ association health and accident insurance policy or health maintenance organization subscriber agreement issued in this state for their support, shall be considered as dependents under the provisions of said policy.

(2) Every unmarried child under the age of twenty-four who is enrolled as a full-time student at an accredited college or university, or a vocational, technical, vocational-technical, or trade school or institute, or secondary school and who is dependent for their support on the primary insured under any group health and accident or ~~franchise~~ association health and accident insurance policy issued in this state shall continue to be considered a dependent under the provisions of such policy if the unmarried child develops a mental or nervous condition, problem, or disorder which renders the unmarried child, in the opinion of a qualified psychiatrist, subject, if deemed necessary by the insurer or health maintenance organization, to a second opinion, unable to attend school as a full-time student and from holding self-sustaining employment until the student reaches the age of twenty-four.

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§215.5. Group, blanket, and ~~franchise~~ association health insurance, treatment for alcoholism and drug abuse

A. Any group, blanket, or ~~franchise~~ association health insurance policy issued under R.S. 22:215 shall include as an option to be exercised by the policyholder, as defined therein, covered benefits for the treatment of alcoholism and for the treatment of drug abuse, rendered or prescribed by a physician licensed in this state, received in any licensed hospital or in any other public or private facility, or portion thereof duly authorized by the appropriate state authority to provide alcoholism or drug abuse treatment and rehabilitation services, including freestanding, nonhospital chemical dependency units.

B. Any insurer who, on October 1, 1982, has group, blanket, or ~~franchise~~ association health insurance policies in force shall convert such existing policies to conform to the provisions of this Section on or before the renewal dates thereof.

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§215.7. Group, blanket, and ~~franchise~~ association health and accident insurance; continuation of coverage

A. Each group, blanket, or ~~franchise~~ association insurance policy containing provisions for payment by the insurer of benefits for expenses incurred for hospital, nursing, medical, or surgical services, issued or renewed in this state on or after September 9, 1983, shall include within its provisions the following:

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§215.9. Group, family group, blanket, and ~~franchise~~ association health and accident insurance; notice required for certain premium increase, cancellation, or nonrenewal

A.(1) Notwithstanding the provisions of R.S. 22:636(A) through (D), every insurer, including any trust subject to the provisions of R.S. 22:2041 et seq., whether domestic or foreign, issuing a policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance under the provisions of this Part to any group composed of one or more members shall notify the policyholder in writing at least forty-five days before any increase of twenty percent or more in the policy rates or at least sixty days before any cancellation or nonrenewal of such policy. Such cancellation or nonrenewal shall comply with the provisions of R.S. 22:636(F).

(2) The notice required by Paragraph (1) of this Subsection may be waived for a policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance which covers one hundred or more persons, provided a provision for such waiver is made part of the policy agreed upon by the insurer and the policyholder.

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§215.11. Early screening and detection requirements; examination; coverage

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C. As used in this Section, "health coverage plan" shall mean any hospital, health, or medical expense insurance policy, hospital or medical service contract, health and accident insurance policy, or any other contract of this type, including a group insurance plan, or any policy of family group, blanket, or ~~franchise~~ association health and

accident insurance, a self-insurance plan, an employee welfare benefit plan, and a health maintenance organization subscriber agreement. Unless otherwise specifically provided in the policy of insurance, nothing in this Section shall apply to high deductible coverage as defined under the Internal Revenue Code of 1986, or similar coverage with a greater deductible amount, limited benefit and supplemental health insurance policies including individually underwritten high deductible coverage as defined under the Internal Revenue Code of 1986, or similar coverage with a greater deductible amount limited benefit and supplemental health insurance policies.

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§215.15. Attention deficit/hyperactivity disorder; coverage; diagnosis

A. Any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance, and a self-insurance plan, which is delivered or issued for delivery in this state on or after January 1, 1994, shall include benefits payable for diagnosis and treatment of attention deficit/hyperactivity disorder as provided in this Section. These benefits shall be payable under the same circumstances and conditions as benefits are paid under those policies, contracts, benefit plans, agreements, or programs for all other diagnoses, illnesses, or accidents.

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§215.17. Obstetrician or gynecological examination; coverage

A.(1) Every hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, which is delivered or issued for delivery in this state shall not prevent any individual who is an insured, enrollee, or beneficiary of any such policy or benefit plan from receiving direct access to an obstetrician or gynecologist or in-network obstetrician or gynecologist for routine gynecological care. For those enrollees in a plan that has made agreements with providers for the provision of health care or related services, the provisions of this Subsection may limit direct access to any in-network obstetrician or gynecologist for routine gynecological care.

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§215.20. Coverage for use of drugs in treatment of cancer

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B. Every hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, which covers the treatment of cancer in this state shall not exclude coverage for any drug prescribed for the

treatment of cancer on the ground that the drug is not approved by the United States Food and Drug Administration for a particular indication if that drug is recognized for treatment of the covered indication in a standard reference compendia or in substantially accepted peer-reviewed medical literature.

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§215.21. Health insurance coverage for diabetes

A. Any hospital, health, or medical expense insurance policy, hospital or medical service contract, health and accident insurance policy, or any other contract of this type providing comprehensive major medical benefits, including a group insurance plan, or any policy of family group, blanket, or ~~franchise~~ association health and accident insurance, a self-insurance plan, an employee welfare benefit plan, or a health maintenance organization subscriber agreement which is issued or renewed in this state on or after January 1, 1998, or the Office of Group Benefits programs shall provide coverage for the equipment, supplies, and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes, and non-insulin using diabetes if prescribed by a physician or, if applicable, the patient's primary care physician.

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§227. Insurance pending adoption

A. Any unmarried child who is placed in the home of an insured pursuant to an adoption placement agreement executed with an adoption agency licensed in accordance with the Child Care Facility and Child-Placing Agency Licensing Law (R.S. 46:1401 et seq.), or

corresponding law of any other state, shall be considered a dependent child of the insured from the date of placement in the home of the insured under the provisions of any individual, group, family group, blanket, or ~~franchise~~ association health and accident insurance policy issued in this state. Coverage available under the policy shall be in accordance with the provisions of the contract of insurance.

B. Any unmarried child who is placed in the home of an insured pursuant to Part III of Chapter 1 of Code Title VII of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, following execution of an act of voluntary surrender in favor of the insured or the insured's legal representative shall be considered a dependent child of the insured under the provisions of any individual, group, family group, blanket, or ~~franchise~~ association health and accident insurance policy issued in this state from the date on which the act of voluntary surrender becomes irrevocable. The clerk of the court having jurisdiction of the adoption matter is hereby authorized to issue, upon request of the insured or the insured's legal representative, a certificate setting forth the name of the child, the date of execution of the act of voluntary surrender, and the date on which the act of voluntary surrender became irrevocable. Coverage available under the policy shall be in accordance with the provisions of the contract of insurance.

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§228.7. Coverage for dental procedures; anesthesia and hospitalization

A. Every hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any policy of group, family group, blanket, or ~~franchise~~ association health and accident insurance,

a self-insurance plan, health maintenance organization, and preferred provider organization, and the Office of Group Benefits programs, which are delivered or issued for delivery in this state shall provide benefits for anesthesia when rendered in a hospital setting and for associated hospital charges when the mental or physical condition of the insured requires dental treatment to be rendered in a hospital setting.

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§230.1. Coverage for rehabilitative physical therapy, occupational therapy, and speech and language pathology therapy; optional coverage

A. Each group, family group, blanket, or ~~franchise~~ association health and accident insurance policy including any insurance program, except the Office of Group Benefits programs, covering the state of Louisiana or any of its subdivisions, departments, or agencies or any of the governing boards or authorities of any state university or college or any public elementary or secondary school system, which is delivered or issued for delivery in this state shall include as an option to be exercised by the policyholder, as defined therein, covered benefits for speech and language pathology therapy, physical therapy, rehabilitative services, and occupational therapy.

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§652.3. Group life and health and accident policy; dependent coverage

A.(1) Every group, blanket, or ~~franchise~~ association policy providing life insurance coverage and health and accident insurance coverage for dependents of the insured shall use the same criteria to determine the maximum age for eligibility of dependents for dependent

life coverage as is used to determine the maximum age for eligibility of dependents for dependent health and accident coverage.

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§669. Severe mental illness and other mental disorders; policy provisions; minimum requirements; group, blanket, and ~~franchise~~ association policies

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(2)(a) Any issuer of a group, blanket, or ~~franchise~~ association policy, contract, benefit plan, agreement, or program specified in Paragraph (1) of this Subsection shall also offer to the policyholder an optional provision in the policy, contract, benefit plan, agreement, or program which states that benefits shall be payable for the treatment of mental disorders other than severe mental illness as defined in Paragraph (1) under the same circumstances and conditions as benefits are paid under those policies, contracts, benefit plans, agreements, or programs for all other diagnoses, illnesses, or accidents.

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(3)(a) The provisions of this Section shall apply only to group, blanket, and ~~franchise~~ association policies.

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§1214. Methods, acts, and practices which are defined herein as unfair or deceptive

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(c) As used in this Paragraph, the following terms shall be given these meanings:

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(ii) "Health benefits policy or plan" means any and all health and accident insurance policies or contracts, including but not limited to individual, group, family, family group, blanket, and ~~franchise~~ association health and accident insurance policies, as well as health maintenance organizations and preferred provider organizations, and any and all other third-party payment plans or contracts, and any and all other health care or health benefits plans, policies, contracts, or funds that either in whole or in part provide benefits for pharmaceutical services and pharmaceutical products that are necessary as a result of or to prevent an accident or sickness.

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§1460. Signature of agent

Every duly licensed insurance agent who solicits information to be contained on any application for individual life or individual, family, group, or ~~franchise~~ association health and accident insurance shall affix his legal signature thereto. No such agent shall sign any application described above unless he personally obtained the information shown on such application.

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§1513. Freedom of choice of dentist in health plans

A. As used in this Section:

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(4) "Health insurance policy" means any individual, group, blanket, or ~~franchise~~ association insurance policy, insurance agreement,

or group hospital service contract providing benefits for dental care expenses incurred as a result of an abnormality, accident, or dental disease.

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Section 2. R.S. 22:215(A)(1)(c) and (4) are hereby repealed in their entirety.

Section 3. The Louisiana State Law Institute is hereby directed to change the term "franchise" to "association" in the Section headings of R.S. 22:215.1 and 215.8.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____