



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261 Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

Christopher R. Nicolopoulos
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

Bulletin Ins. 20-031-AB

TO: All Insurance Companies issuing Ancillary Health Products
FROM: Christopher R. Nicolopoulos, Insurance Commissioner *C.R.N.*
DATE: May 1, 2020
RE: Waiver of Ins 6001.05(h) Pertaining to Coordination of Benefits of Disability Income Products

The New Hampshire Insurance Department (“NHID”) has undertaken a review of one of its recently adopted rules, Ins 6001.05(h).¹ This rule prohibits coordination of benefits of ancillary health products, except in the case of group dental expense benefits. Prior to 2018, ancillary health products were subject to regulation under Ins 1901 (“Minimum Standards for Accident and Health Insurance”), which expired in 2014. Expired Ins 1901 applied to all individual and group health products under RSA 415 and RSA 415-A. To the contrary, Ins 6000 applies only to ancillary health products—that means these regulations do not apply to medical expense based health coverage products subject to RSA 420-G. *See* Ins. 6001.02 (b).

Coordination of benefits prevents over insurance when an insured has multiple expense based health plans. Conversely, coordination of benefits in most cases does not apply to indemnity coverage products, which are supplemental coverages, such as hospital confinement indemnity, specified disease coverage, and accident only coverage. *See* NAIC MDL #120. In the past any such coverage has historically been payable regardless of other coverage, which is consistent with NAIC model laws, previous NHID regulations, and Ins 6001.05(h). *See, e.g.*, NAIC Model Law #120; expired Ins 1901.06(e); Ins 1901.06(j)(2)(h). However, unlike other ancillary health indemnity products, coordination of benefits has not been prohibited with disability income products as long as offsets are consistent with 6001.05 (n).²

¹ Ins 6001.05(h) Coordination of benefits shall be prohibited, except for group dental expense benefits.

² Ins 6001.05 (n) Policy or certificate provisions precluded in this section shall not be construed as a limitation on the authority of the commissioner to disapprove other policy provisions in accordance with RSA 415-A that in the

The Commissioner, upon the Commissioner's own initiative or upon request by an insurer, shall waive any requirement of Ins 6001 if such waiver does not contradict the objective or intent of the rule and strict compliance with the rule would be onerous without promoting the object or intent of the rule provision. *See* Ins 6001.07.³ Here, considering the foregoing with regard to income disability products, the prohibition against coordination of benefits for all ancillary health products, except for group dental benefits, was an error in the initial drafting of the Ins 6000 series. Thus, Ins 6001.05(h), as currently drafted, is inapplicable to disability income products.

Waiving Ins 6001.05(h) as to disability income insurance products will not contradict the objective or intent of the rule and will alleviate its impact on industry. Until the rule can be amended, it is appropriate to waive the requirement of Ins 6001.05(h) as to pending and future filings, consistent with this Bulletin. This will provide clarity as well as save time and resources for our licensees and Department staff. This limited waiver of Ins 6001.05(h) is effective immediately and will remain in effect until such time as the Department formally amends the rule.

opinion of the commissioner are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary, or a person insured under the policy or certificate.

³ Ins 6001.07 Waiver or Suspension of Rules.

- (a) The commissioner, upon the commissioner's own initiate or upon request by an insurer, shall waive any requirement of this chapter if such waiver does not contradict the objective or intent of the rule and;
 - (1) Applying the rule provision would cause confusion or would be misleading to consumers;
 - (2) The rule provision is in whole or in part inapplicable to the given circumstances;
 - (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or
 - (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision.
- (b) No requirement prescribed by statute shall be waived unless expressly authorized by law.
- (c) Any person or entity seeking a waiver shall make a request in writing.
- (d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

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