FAMILY VOICES OF NORTH DAKOTA®

Health Consumer Rights and Related Laws
HIPAA

The Health Insurance Portability and Accountability Act (HIPAA) is a federal law which became effective in 1996. This law offers protections for American workers that improve the **portability**, or transferability, and continuity of health insurance coverage.
Some of the benefits that HIPAA provides include:

- Limits exclusions for **preexisting medical conditions**.
- Provides credit against maximum preexisting condition exclusion periods for prior health coverage and a process for providing certificates showing periods of prior coverage to a new group health plan or health insurance issuer.
- Provides new rights that allow individuals to enroll for health coverage when they lose other health coverage, get married or add a new dependent.
- Prohibits discrimination in enrollment and in premiums charged to employees and their dependents based on health status related factors.
- Guarantees availability of health insurance coverage for small employers and renewability of health insurance coverage for both small and large employers.
- Preserves the states' role in regulating health insurance, including the states' authority to provide greater protections than those available under federal law.

Preexisting Condition Exclusions

The law defines a preexisting condition as one for which medical advice; diagnosis, care, or treatment was recommended or received during the 6 -month period prior to an individual's enrollment date (which is the earlier of the first day of health coverage or t he first day of any waiting period for coverage).

Insurance companies may not exclude an individual's preexisting medical condition from coverage for more than 12 months (18 months only in certain cases) after an individual's enrollment date. Under HIPAA, a new employer's plan must give individuals credit for the length of time they had prior continuous health coverage, without a break in coverage of 63 days or more, thereby reducing or eliminating the 12 month exclusion period (18 months for late enrollees).

Certificates of Creditable Coverage (Proof of Insurance)

A **certificate of creditable coverage** is proof of prior insurance coverage under a group health plan, an individual health insurance policy, COBRA, Medicaid, CHAMPS, the Indian Health Service, a state health benefits risk pool, FEHBP, the Peace Corps Act, or a public health plan. Certificates of creditable coverage must be provided automatically and free of charge by your employer or the insurance company when an individual loses coverage under the plan, becomes entitled to choose COBRA continuation coverage or exhausts COBRA continuation coverage. A certificate must also be provided free of charge upon request while you have health coverage or anytime within 24 months after your coverage ends.

Certificates of creditable coverage should contain information about the length of time you or your dependents had coverage as well as the length of any waiting period for coverage that applied to you or your dependents.

For plan years beginning on or after July 1, 2005, certificates of creditable coverage should also include an educational statement that describes individual's HIPAA portability rights. A model certificate is available on the US Department of Labor Employee Benefits Security Administration's (**EBSA**) web site.

If a certificate is not received, or the information on the certificate is wrong, you should contact your prior plan or issuer. You have a right to show prior creditable coverage with other evidence— like pay stubs, explanation of benefits, letters from a doctor– if you cannot get a certificate.

Special Enrollment Rights

Special enrollment rights are provided for individuals who lost their coverage in certain situations, including separation, divorce, death, termination of employment and reduction in hours. Special enrollment rights also are provided if employer contributions toward other coverage terminates.

Special enrollment rights are provided for employees, their spouses and new dependents upon marriage, birth, adoption or placement for adoption.

Discrimination Prohibitions

Discrimination Prohibitions ensure that individuals are not excluded from coverage, denied benefits, or charged more for coverage offered by a plan or issuer, based on heath status-related factors.

Privacy and Your Health Information

HIPAA gives you rights over your health information. You can set rules and limits on who can look at and receive your health information.

Your health information is protected by federal law which must be followed by physicians, nurses, pharmacies, hospitals, clinics, nursing homes, health insurance companies, HMOs, employer group health plans, and certain government programs such as Medicare and Medicaid.

You have the right to:

- See and get a copy of your health records.
  NOTE: There may be a charge by your physician's office or by a medical records storage facility to copy health records!
- Have corrections added to your health information.
- Receive a notice that tells you how your health information may be used and shared.
- Decide if you want to give your permission before your health information can be used or shared for certain purposes, such as marketing.
- Get a report on when and why your health information was shared for certain purposes.

If you believe your rights are being denied or your health information is not being protected, you can file a complaint with your provider, health insurer, or with the U.S. Government.

For More Information

You can learn more about your rights including how to file a complaint, from the U.S. Department of Health & Human Services Office for Civil Rights website at **www.hhs.gov.ocr/hipaa/** or by calling toll free 1-866-627-7748.

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