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INSURANCE PROVISIONS REGARDING

OFFENDERS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Insurance Code by requiring an insurance company providing health or accident policies to coordinate benefits for an insured individual housed in a correctional facility or offenders in the custody of the Department of Corrections.

Highlighted Provisions:

This bill:

▶ provides that, if an insured is otherwise eligible for benefits under a policy, an accident and health insurer may not exclude coverage for:

- an inmate housed in a correctional facility; or
- an offender in the custody of the Department of Corrections;

▶ requires that an accident and health insurer coordinate benefits for an insured who is:

- an inmate housed in a correctional facility; or
- an offender in the custody of the Department of Corrections; ~~and~~ **[and]** ~~and~~

▶ requires an inmate who has medical or dental insurance coverage, upon entering into the Department of Correction's custody, to use that coverage as primary payer for medical and dental costs incurred while in the custody of the Department of Corrections ~~and~~ **;** ~~and~~ **and**

▶ provides specified exemptions regarding coverage by an inmate's health or dental insurance policy, including injuries caused by physical violence ~~and~~ **.**

Monies Appropriated in this Bill:



H.B. 372

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **31A-22-613**, as last amended by Laws of Utah 2005, Chapter 78

34 **31A-22-619**, as last amended by Laws of Utah 2001, Chapter 116

35 **64-13-30**, as last amended by Laws of Utah 2002, Chapter 140



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **31A-22-613** is amended to read:

39 **31A-22-613. Permitted provisions for accident and health insurance policies.**

40 The following provisions may be contained in an accident and health insurance policy,
41 but if they are in that policy, they shall conform to at least the minimum requirements for the
42 policyholder in this section.

43 (1) Any provision respecting change of occupation may provide only for a lower
44 maximum benefit payment and for reduction of loss payments proportionate to the change in
45 appropriate premium rates, if the change is to a higher rated occupation, and this provision
46 shall provide for retroactive reduction of premium rates from the date of change of occupation
47 or the last policy anniversary date, whichever is the more recent, if the change is to a lower
48 rated occupation.

49 (2) Section 31A-22-405 applies to misstatement of age in accident and health policies,
50 with the appropriate modifications of terminology.

51 (3) Any policy which contains a provision establishing, as an age limit or otherwise, a
52 date after which the coverage provided by the policy is not effective, and if that date falls
53 within a period for which a premium is accepted by the insurer or if the insurer accepts a
54 premium after that date, the coverage provided by the policy continues in force, subject to any
55 right of cancellation, until the end of the period for which the premium was accepted. This
56 Subsection (3) does not apply if the acceptance of premium would not have occurred but for a
57 misstatement of age by the insured.

58 (4) (a) If an insured is otherwise eligible for maternity benefits, a policy may not

59 contain language which requires an insured to obtain any additional preauthorization or
 60 preapproval for customary and reasonable maternity care expenses or for the delivery of the
 61 child after an initial preauthorization or preapproval has been obtained from the insurer for
 62 prenatal care. A requirement for notice of admission for delivery is not a requirement for
 63 preauthorization or preapproval, however, the maternity benefit may not be denied or
 64 diminished for failure to provide admission notice. The policy may not require the provision of
 65 admission notice by only the insured patient.

66 (b) This Subsection (4) does not prohibit an insurer from:

67 (i) requiring a referral before maternity care can be obtained;

68 (ii) specifying a group of providers or a particular location from which an insured is
 69 required to obtain maternity care; or

70 (iii) limiting reimbursement for maternity expenses and benefits in accordance with the
 71 terms and conditions of the insurance contract so long as such terms do not conflict with
 72 Subsection (4)(a).

73 (5) An insurer may only represent that a policy:

74 (a) offers a vision benefit if the policy:

75 (i) charges a premium for the benefit; and

76 (ii) provides reimbursement for materials or services provided under the policy; and

77 (b) covers laser vision correction, whether photorefractive keratectomy, laser assisted
 78 in-situ keratomeluzis, or related procedure, if the policy:

79 (i) charges a premium for the benefit; and

80 (ii) the procedure is at least a partially covered benefit.

81 (6) If an insured is otherwise eligible for benefits under a policy, an accident and health
 82 insurer may not exclude coverage if the insured is an:

83 (a) inmate housed in a correctional facility as defined in Section 64-13-1; or

84 (b) offender in the custody of the Department of Corrections.

85 Section 2. Section **31A-22-619** is amended to read:

86 **31A-22-619. Coordination of benefits.**

87 (1) The commissioner shall adopt rules concerning the coordination of benefits
 88 between accident and health insurance policies.

89 (2) Rules adopted by the commissioner under Subsection (1):

90 (a) may not prohibit coordination of benefits with individual accident and health
91 insurance policies; [~~and~~]

92 (b) shall apply equally to all accident and health insurance policies without regard to
93 whether the policies are group or individual policies[~~;~~]; and

94 (c) shall require an accident and health insurer to coordinate benefits for an insured
95 who is an:

96 (i) inmate housed in a correctional facility as defined in Section 63-13-1; or

97 (ii) offender in the custody of the Department of Corrections.

98 Section 3. Section **64-13-30** is amended to read:

99 **64-13-30. Expenses incurred by offenders -- Payment to department or county**
100 **jail.**

101 (1) (a) The department shall establish and collect from [~~offenders~~] each offender on a
102 work release [programs] program the reasonable costs of the offender's maintenance,
103 transportation, and incidental expenses incurred by the department on behalf of the [~~offenders~~]
104 offender.

105 (b) Priority shall be given to restitution and family support obligations.

106 (c) The offender's reimbursement to the department for the cost of obtaining the
107 offender's DNA specimen, under Section 53-10-404 is the next priority after Subsection (1)(b).

108 (2) The department, under its rules, may advance funds to any offender as necessary to
109 establish the offender in a work release program.

110 (3) (a) The department or county jail may require an inmate to make a [~~reasonable~~]
111 copayment for medical and dental services provided by the department or county jail.

112 (b) An inmate may not be denied medical treatment if he is unable to pay the
113 copayment because of inadequate financial resources.

114 (4) ~~H→ (a) ←H~~ An inmate who, upon entering into the department's custody, has
114a medical insurance

115 or dental insurance coverage shall use that coverage as the primary payer for medical and
116 dental costs incurred while in the custody of the department ~~H→~~ , except as limited under

116a Subsection (4)(b) ←H .

116b ~~H→~~ (b) Any insurance policy held by an inmate for medical or dental care is not required
116c under Subsection (4)(a) to provide coverage for:

116d (i) incidents involving the self harm of the inmate;

116e (ii) injuries sustained by the inmate as a result of an act of physical violence committed
116f either upon or by the inmate; or

116g (iii) situations where the department has reason to believe, based on a medical
116h evaluation of the inmate, that the inmate sought the medical or dental care knowing that an
116i underlying medical or dental need did not exist. ~~←H~~

Legislative Review Note
as of 2-13-09 2:51 PM

Office of Legislative Research and General Counsel

H.B. 372 - Insurance Provisions Regarding Offenders

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill may avoid future costs for Department of Corrections medical services, but there is insufficient data to quantify the amount.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, or businesses. Local governments may benefit from avoided costs.
