

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

May 26, 2021

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

SB21-016 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend reengrossed bill, page 3, line 7, after "(XI)" insert "(A)".

2 Page 3, after line 11 insert:

3           "(B) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT  
4 OF HEALTH AND HUMAN SERVICES ITS DETERMINATION AS TO WHETHER  
5 THE BENEFIT SPECIFIED IN THIS SUBSECTION (18)(b)(XI) IS IN ADDITION TO  
6 ESSENTIAL HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFRAYAL BY  
7 THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B) AND A REQUEST  
8 THAT THE FEDERAL DEPARTMENT CONFIRM THE DIVISION'S  
9 DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE DIVISION'S  
10 REQUEST AND SUBMISSION OF ITS DETERMINATION.

11           (C) THIS SUBSECTION (18)(b)(XI) APPLIES TO LARGE EMPLOYER  
12 POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1,  
13 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS  
14 ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL  
15 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18)(b)(XI) IF THE  
16 DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL DEPARTMENT OF  
17 HEALTH AND HUMAN SERVICES THAT THE COVERAGE SPECIFIED IN THIS  
18 SUBSECTION (18)(b)(XI) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT  
19 THAT REQUIRES DEFRAYAL BY THE STATE PURSUANT TO 42 U.S.C. SEC.  
20 18031 (d)(3)(B); THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN  
21 SERVICES HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE  
22 DOES NOT REQUIRE STATE DEFRAYAL PURSUANT TO 42 U.S.C. SEC. 18031

1 (d)(3)(B); OR MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED  
2 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR  
3 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION  
4 (18)(b)(XI) IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE  
5 DEFRAIDAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE  
6 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO  
7 RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE  
8 DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE  
9 DELAY A PRECLUSION FROM REQUIRING DEFRAIDAL BY THE STATE."

10 Page 3, after line 19 insert:

11 "(d) (I) THE DIVISION SHALL SUBMIT TO THE FEDERAL  
12 DEPARTMENT OF HEALTH AND HUMAN SERVICES:

13 (A) ITS DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED  
14 IN THIS SUBSECTION (18.1) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS  
15 AND WOULD BE SUBJECT TO DEFRAIDAL BY THE STATE PURSUANT TO 42  
16 U.S.C. SEC. 18031 (d)(3)(B); AND

17 (B) A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE  
18 DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE  
19 DIVISION'S REQUEST AND SUBMISSION OF ITS DETERMINATION.

20 (II) THIS SUBSECTION (18.1) APPLIES TO LARGE EMPLOYER  
21 POLICIES OR CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1,  
22 2022, AND TO INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS  
23 ISSUED ON OR AFTER JANUARY 1, 2023, AND THE DIVISION SHALL  
24 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (18.1), IF:

25 (A) THE DIVISION RECEIVES CONFIRMATION FROM THE FEDERAL  
26 DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE  
27 SPECIFIED IN THIS SUBSECTION (18.1) DOES NOT CONSTITUTE AN  
28 ADDITIONAL BENEFIT THAT REQUIRES DEFRAIDAL BY THE STATE PURSUANT  
29 TO 42 U.S.C. SEC. 18031 (d)(3)(B);

30 (B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES  
31 HAS OTHERWISE INFORMED THE DIVISION THAT THE COVERAGE DOES NOT  
32 REQUIRE STATE DEFRAIDAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B);  
33 OR

34 (C) MORE THAN THREE HUNDRED SIXTY-FIVE DAYS HAVE PASSED  
35 SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR  
36 CONFIRMATION THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (18.1)  
37 IS NOT AN ADDITIONAL BENEFIT THAT REQUIRES STATE DEFRAIDAL  
38 PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B), AND THE FEDERAL  
39 DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND

1 TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION  
2 SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A  
3 PRECLUSION FROM REQUIRING DEFRAIAL BY THE STATE."

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