

INSURANCE CODE

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES

SUBTITLE B. GROUP HEALTH COVERAGE

CHAPTER 1255. GROUP FAMILY LEAVE INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1255.001. DEFINITIONS. In this chapter:

(1) "Continuing supervision by a health care provider" includes a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective and for which the affected individual is not receiving active treatment by a health care provider.

(2) "Dependent" means an individual who is under 18 years of age, or 18 years of age or older and incapable of self-care due to a mental or physical disability, and is, in relation to an insured:

- (A) a biological, adopted, or foster child;
- (B) a legal ward;
- (C) a child of the insured's spouse;
- (D) a child with respect to whom the insured is a party to a suit in which the insured seeks to adopt the child; or
- (E) a child of a person to whom the insured stands in loco parentis.

(3) "Family leave" means leave taken by an employee from work for reasons described by Section [1255.102](#).

(4) "Family leave insurance" means an insurance policy issued through an employer related to a benefit program provided to an employee to pay for a portion of the employee's income loss due to family leave taken by the employee.

(5) "Family member," in relation to an insured, includes a dependent, spouse, or parent or any other person defined as a family member in the family leave insurance policy.

(6) "Health care provider" means a person licensed, certified, or otherwise authorized by the laws of this state to provide health care services in the ordinary course of business or practice of a profession.

(7) "Parent" means, in relation to an insured:

(A) a biological, adoptive, or foster parent;

(B) a stepparent;

(C) a legal guardian; or

(D) a person who stood in loco parentis to the insured when the insured was a child.

(8) "Serious health condition" means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves:

(A) inpatient care in a hospital, hospice, or residential health care facility;

(B) continuing treatment; or

(C) continuing supervision by a health care provider.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a family leave insurance policy, amendment, or rider to a group disability policy delivered or issued for delivery in this state by a life, health, and accident insurance company.

(b) Notwithstanding Chapter 1701 and except as provided by Section 1255.108, this chapter does not apply to a certificate of family leave insurance delivered to a resident in this state if the group policy was delivered or issued for delivery in another state.

(c) This chapter applies to an insurance company authorized to write life, health, and accident insurance in this state, including a stipulated premium company operating under Chapter 884.

(d) This chapter does not apply to:

(1) a society, company, or other insurer whose activities are exempt by statute from department regulation and that is entitled by statute to a certificate from the department that shows the entity's exempt status;

(2) a credit accident and health insurance policy issued under Chapter 1153;

(3) a workers' compensation insurance policy;

(4) a liability insurance policy, with or without supplementary expense coverage;

(5) a reinsurance policy or contract;

(6) a blanket or group insurance policy, except as otherwise provided by this chapter; or

(7) a life insurance endowment or annuity contract, or a contract supplemental to a life insurance endowment or annuity contract, if the contract or supplemental contract contains only provisions relating to accident and health insurance that:

(A) provide additional benefits in case of accidental death, accidental dismemberment, or accidental loss of sight; or

(B) operate to:

(i) safeguard the contract or supplemental contract against lapse; or

(ii) give a special surrender value, a special benefit, or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.003. CONSIDERATION AS DISABILITY INCOME INSURANCE. A family leave insurance policy is considered a type of disability income insurance for all purposes under this code.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.004. APPLICATION OF OTHER LAW; CONFLICTS.

(a) The provisions of Subchapter B, Chapter 1251, governing eligibility for group accident and health insurance apply to govern the eligibility of a group for purposes of this chapter to the extent those provisions do not conflict with this chapter. This chapter prevails over Subchapter B, Chapter 1251, if there is a conflict.

(b) Notwithstanding any other law, the law of the state in which the group or master policy providing family leave insurance

is delivered or issued for delivery governs disputes between the insurer, group policyholder, and certificate holder.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.005. RULEMAKING AUTHORITY. The commissioner may adopt reasonable rules as necessary to implement this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

#### SUBCHAPTER B. MINIMUM POLICY STANDARDS

Sec. 1255.101. COMPLIANCE WITH MINIMUM STANDARDS FOR BENEFITS. A group family leave insurance policy must meet the minimum standards for benefits as provided by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.102. FAMILY LEAVE BENEFITS. A group family leave insurance policy may provide benefits for any leave taken by an insured from work to:

(1) participate in providing care, including physical or psychological care, for a family member of the insured made necessary by a serious health condition of the family member;

(2) bond with the insured's child during the first 12 months after the child's birth, or the first 12 months after the placement of the child for adoption or foster care with the insured;

(3) address a qualifying exigency, as interpreted under the Family and Medical Leave Act of 1993 (29 U.S.C. Section 2612(a)(1)(E)) and 29 C.F.R. Sections 825.126(b)(1)-(8), arising from the fact that the spouse, dependent, or parent of the insured is on active duty or has been notified of an impending call or order to active duty in the armed forces of the United States, including the National Guard and armed forces reserves;

(4) care for a family member described by Subdivision (3) who is injured in the line of duty; or

(5) take other leave to provide care for a family

member or other family leave as specified in the policy.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.103. EXPLANATION OF COVERED FAMILY LEAVE REASONS. A group family leave insurance policy must provide the details regarding and requirements for each covered family leave reason.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.104. BENEFIT PERIOD. (a) A group family leave insurance policy must establish the length of family leave benefits that are available for each covered family leave reason.

(b) The length of family leave benefits available for a covered family leave reason may not be less than two weeks during a period of 52 consecutive calendar weeks.

(c) A group family leave insurance policy may calculate the 52 consecutive calendar weeks by any of the following methods:

- (1) a calendar year;
- (2) a fixed period starting on a particular date, including an effective or anniversary date;
- (3) the period measured forward from the insured's first day of family leave;
- (4) a rolling period measured from the insured's first day of family leave; or
- (5) any other method that is specified in the policy.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.105. WAITING PERIOD. (a) A group family leave insurance policy must specify whether there is an unpaid waiting period.

(b) If a group family leave insurance policy contains an unpaid waiting period, the terms of the unpaid waiting period may include:

- (1) whether the waiting period runs over a consecutive

calendar day period;

(2) whether the waiting period is counted toward the annual allotment of family leave benefits or is in addition to the annual allotment of family leave benefits;

(3) whether the waiting period must be met only once per benefit year or must be met for each separate claim for benefits; and

(4) whether the insured may work or receive paid time off or other compensation by the employer during the waiting period.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.106. AMOUNT OF FAMILY LEAVE BENEFITS; OTHER INCOME. (a) A group family leave insurance policy must specify:

(1) the amount of benefits that will be paid for covered family leave reasons;

(2) the definition of wages or other income on which the amount of family leave benefits is based; and

(3) the method for calculating those wages or other income.

(b) If the family leave benefits are subject to offsets for wages or other income received by the insured or for which the insured may be eligible, the group family leave insurance policy must specify:

(1) which wages or other income may be offset; and

(2) the circumstances under which the wages or other income may be offset.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.107. PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS. (a) A group family leave insurance policy that limits, excludes, or reduces eligibility for family leave benefits under this chapter must state the limit, exclusion, or reduction in the policy.

(b) Permissible limitations, exclusions, or reductions in

the policy include a limitation, exclusion, or reduction for:

(1) a period of family leave for which the required notice and medical certification have not been provided as prescribed by the policy;

(2) family leave related to a serious health condition or other harm to a family member brought about by the wilful intention of the insured;

(3) a period of family leave during which the insured performed work for compensation or profit;

(4) a period of family leave for which the insured is eligible to receive money from the insured's employer or from a fund to which the employer has contributed;

(5) a period of family leave in which the insured is eligible to receive benefits under another statutory program or employer-sponsored program, including unemployment insurance benefits, workers' compensation benefits, statutory disability benefits, statutory paid leave benefits, or paid time off from the employer's paid leave policy;

(6) a period of family leave beginning before the insured becomes eligible for family leave benefits under the policy; or

(7) periods of family leave during which more than one person covered under the policy seeks family leave for the same family member.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. 1996), Sec. 2, eff. September 1, 2023.

Sec. 1255.108. CERTIFICATE OF INSURANCE. (a) An insurer providing family leave insurance shall issue a certificate of insurance to each employee or member of the insured group.

(b) The certificate of insurance must include:

(1) a summary of the essential features of the paid family leave insurance coverage and benefits available to the insured;

(2) the limitations, exclusions, or reductions;

(3) the annual and lifetime policy limits; and

(4) the person to whom the benefits are payable.

(c) An insurer may file a certificate issued to an insured in this state for a group policy providing family leave insurance that was delivered or issued for delivery in another state with the department for informational purposes.

(d) An insurer is not required to file or receive approval under Chapter [1701](#) for a certificate for a foreign group.

Added by Acts 2023, 88th Leg., R.S., Ch. 703 (H.B. [1996](#)), Sec. 2, eff. September 1, 2023.