

State of Vermont
Department of Financial Regulation
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October 9, 2015

Ms. Karen Z. Schutter, Executive Director
Interstate Insurance Product Regulation Commission
444 North Capitol Street, NW
Hall of the States, Suite 701
Washington, DC 20210

Re: Group Disability Income Insurance Uniform Standards

Dear Ms. Schutter:

The Vermont Department of Financial Regulation (the “Department”) has carefully reviewed the proposed Group Disability Income Insurance Product Standards recommended by the Product Standards Committee on August 14, 2015. The Department supports those standards with the exceptions discussed below, which are significant enough to require that we opt-out of the product standard if it is adopted in its current form.

The proposed Group Disability Product Standards allow insurers to exclude or limit coverage for mental or nervous disorders (§7(O)), chemical dependency (§7(C)), legal intoxication (§7(L)), and the voluntary intake of narcotics or controlled substances (§7(M)). Under Vermont’s mental health parity statute (8 V.S.A. § 4089b), health insurers are prohibited from excluding or limiting coverage for the treatment for mental health conditions (including alcohol or substance abuse) if a policy provides coverage for the treatment of physical conditions. Vermont’s prohibition on the exclusion or limitation of mental health conditions in disability income replacement policies is explained in Department Bulletin 127, which was issued in 2008. The position expressed in Bulletin 127 is based on the Department’s authority under 8 V.S.A. § 4062 to disapprove policy terms that are unfair or unjust. Allowing policies containing such exclusions or limitations to be sold in Vermont now would violate state law, be inconsistent with Department policy, and be disruptive to a marketplace where the coverage of mental health-related disabilities has been the norm for almost eight years.

In recent years, federal and state regulators have moved steadily in the direction of mental health parity. The Affordable Care Act has expanded mental health and substance abuse coverage to millions of health care consumers throughout the country and Social Security Disability Insurance also covers a wide range of mental health conditions (including substance abuse). A number of states have enacted robust mental health parity laws. It seems possible,



given the broad recognition that mental health conditions can be as disabling as physical conditions, that other states may find it desirable to expand the scope of disability income coverage in the near future.

The Department respectfully requests that the Management Committee consider a compromise approach in the product standards that requires an insurer filing a group disability policy with the IIPRC to use variable language with respect to mental health and substance abuse exclusions. This will guarantee that the actual policy issued in Vermont (and in other states with similar laws) will conform to state requirements. It is the Department's understanding that the IIPRC has used this approach before in its Long Term Care Standards to ensure that the issued policy form contains the minimum daily benefits, maximum elimination periods, etc. required by the state of issue. In addition, the Term Life Insurance Standards adopted by the Management Committee require deference to state law concerning the permissibility of exclusions for avocation, aviation and foreign travel. The Department believes that these existing state-specific product standards provide ample support for deferring to state law on the coverage of mental-health related disabilities.

Adoption of such a compromise would ensure that group disability policies issued in Vermont do not contain mental health or substance abuse exclusions, would allow flexibility to other states, and would ensure the Department does not have to opt out of the Group Disability Product Standards at a later date.

Thank you very much for the opportunity to comment on the Group Disability Product Standards. Please do not hesitate to call me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Susan L. Donegan" with a decorative flourish at the end.

Susan L. Donegan, Commissioner

cc: Kaj Samsom, Deputy Commissioner