

Sec. 38a-505-5. Policy definitions

Except as provided hereafter, no individual accident or sickness insurance policy or fraternal benefit society certificate delivered or issued for delivery to any person in this State shall contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section.

(A) "One Period of Confinement" means consecutive days of in-hospital service received as an in-patient, or successive confinements when discharged from and readmission to the hospital occurs within a period of time not more than 90 days or three times the maximum number of days of in-hospital coverage provided by the policy to a maximum of 180 days.

(B) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(1) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

(a) Be an institution operated pursuant to law; and

(b) Be primarily and continuously engaged in providing or operating either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and

(c) Provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

(2) The definition of the term "hospital" may state that such term shall not be inclusive of:

(a) Convalescent homes, convalescent, rest, or nursing facilities; or

(b) Facilities primarily affording custodial, educational or rehabilitatory care; or

(c) Facilities for the aged, drug addicts or alcoholics; or

(d) Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the Armed Forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

(C) "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities, and available services.

(1) A definition of such home or facility shall not be more restrictive than one requiring that it:

(a) Be operated pursuant to law;

(b) Be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;

(c) Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(d) Provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.);

(e) Maintains a daily medical record of each patient.

(2) The definition of such home or facility may provide that such term shall not be inclusive of:

- (a) Any home, facility or part thereof used primarily for rest;
- (b) A home or facility for the aged or for the care of drug addicts or alcoholics; or
- (c) A home or facility primarily used for the care and treatment of mental diseases or disorders or custodial or educational care.

(D) "Accident," "Accidental Injury," "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization. The definition shall not be more restrictive than the following; Injury or injuries, for which benefits are provided, means accidental bodily injuries sustained by the insured person which are the direct cause, independent of disease or bodily infirmity or any other cause and occur while the insurance is in force. Such definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employers liability or similar law, the basic reparations benefits of any motor vehicle no-fault plan or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.

(E) "Sickness" shall not be defined to be more restrictive than the following: Sickness means sickness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force. A definition of sickness may provide for a probationary period which will not exceed thirty (30) days from the effective date of the coverage of the insured person. The definition may be further modified to exclude sickness or disease for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

(F) "Pre-existing condition shall not be defined to be more restrictive than the following: Pre-existing condition means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment within a five (5) year period preceding the effective date of the coverage of the insured person or a condition for which medical advice or treatment was recommended by a physician or received from a physician within a five (5) year period preceding the effective date of the coverage of the insured person. This definition does not prohibit an insurer, using an application form designated to elicit the complete health history of a prospective insured and on the basis of the answers on that application, from underwriting in accordance with that insurer's established standards. It is assumed that an insurer that elicits a complete health history of a prospective insured will act on the information and if the review of the health history results in a decision to exclude a condition, the policy will be endorsed or amended by including the specific exclusion. This same requirement of notice to the prospective insured of the specific exclusion will also apply to insurers which elect to use simplified application forms containing questions relating to the prospective insured's health. This definition does, however, prohibit an insurer that elects to use a simplified application, with or without a question as to the applicant's health at the time of application, from reducing or denying a claim on the basis of the existence of a pre-existing condition that is defined more restrictively than above.

(G) "Physician" shall be defined as a person who is licensed by the State in which he or she practices to give treatment for which benefits are provided under the policy and who is acting within the scope of his or her license.

(H) "Nurses" may be defined so that the description of nurse is restricted to a type of

nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words “nurse,” “trained nurse” or “registered nurse” are used without specific instruction, then the use of such terms requires the insurer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the State.

(I) “Total Disability.”

(1) A general definition of total disability cannot be more restrictive than one requiring the individual to be totally disabled from engaging in any employment or occupation for which he is or becomes qualified by reason of education, training or experience and not, in fact, engaged in any employment or occupation for wage or profit.

(2) Total disability may be defined in relation to the inability of the person to perform duties but may not be based solely upon an individual’s inability to:

(a) Perform “any occupation whatsoever,” “any occupational duty,” or “any and every duty of his occupation,” or

(b) Engage in any training or rehabilitation program.

(3) An insurer may specify the requirement of the complete inability of the person to perform all of the substantial and material duties of his regular occupation or words of similar import. An insurer may require care by a physician (other than the insured or a member of the insured’s immediate family).

(J) “Partial Disability” shall be defined in relation to the individual’s inability to perform one or more, but not all, of the “major,” “important,” or “essential” duties of his employment or occupation or may be related to a “percentage” of time worked or to a “specified number of hours” or to “compensation.” Where a policy provides total disability benefits and partial disability benefits, only one elimination period may be required.

(K) “Residual Disability” shall be defined in relation to the individual’s reduction in earnings and may be related either to the inability to perform some part of the “major,” “important,” or essential duties” of employment or occupation, or to the inability to perform all usual business duties for as long as is usually required. A policy which provides for residual disability benefits may require a qualification period, during which the insured must be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term “residual disability,” the insurer may use “proportionate disability” or other term of similar import which in the opinion of the commissioner adequately and fairly describes the benefit.

(L) “Medicare” shall be defined in any hospital, surgical or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as “The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended,” or “Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof” or words of similar import.

(M) “Mental or Nervous Disorders” shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or

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emotional disease or disorder of any kind.

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