WEST VIRGINIA CODE: §33-16-3M

§33-16-3m. Creditable coverage.

(a)(1) A health insurer shall certify an enrollee's creditable coverage at the time an enrollee:

(A) Ceases to be covered under a health benefit plan issued in connection with a group health plan, including coverage under a COBRA continuation provision. For purposes of this article, "COBRA continuation provision" means any of the following:

(i) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines;

(ii) Part 6 of subtitle B of Title I of the Employee Retirement Income Security Act of 1974, other than Section 609 of such act; or

(iii) Title XXII of the Public Health Service Act;

(B) Ceases to be covered under a COBRA continuation provision; and

(C) Requests certification, but no later than twenty-four months after cessation of coverage under the health benefit plan.

(2) The health insurer shall provide the enrollee a written certification of:

(A) The period of creditable coverage under the health benefit plan, including coverage, if any, under a COBRA continuation provision; and

(B) The waiting period, if any, and affiliation period, if applicable, for any coverage under the health benefit plan.

(b) For purposes of reducing an enrollee's preexisting condition exclusion period, creditable coverage shall not be counted if, after such period and before an employee's or dependent's enrollment in a health benefit plan issued in connection with a group health plan, there was a period of sixty-three days or more during all of which the individual was not covered under any creditable coverage. For purposes of this subsection, a sixty-three-day period may not include any waiting period or affiliation period prior to the effective date of an individual's coverage.

(c) For purposes of reducing an enrollee's preexisting condition exclusion period, a health insurer:

(1) Shall count a period of creditable coverage without regard to specific benefits covered during the period; or

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(2) May elect to apply creditable coverage based upon each of several classes or categories of benefits in accordance with rules promulgated by the commissioner. A health insurer shall make such an election on a uniform basis for all enrollees and shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within such class or category.

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