WEST VIRGINIA CODE: §33-16-3N

§33-16-3n. Eligibility for enrollment.

(a) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, a health insurer offering coverage in connection with a group health plan may not, for plan years beginning after June 30, 1997, establish rules for eligibility, including continued eligibility, of any employee or dependent to enroll under a health benefit plan based on a health status-related factor.

(b) For plan years beginning after June 30, 1997, a health benefit plan offered in connection with a group health plan shall provide that an employee or dependent of an employee who is eligible, but not enrolled, under terms of a health benefit plan may enroll under terms of the plan if the employee or dependent:

(1) Was covered under other creditable coverage when coverage was previously offered to the employee or dependent and, if required by the insurer, the employee stated in writing that the existence of other creditable coverage was the reason for declining enrollment under the health benefit plan;

(2) Lost coverage under the other creditable coverage because of legal separation, divorce, death, termination of employment, reduction in the number of hours of employment, exhaustion of COBRA continuation coverage or termination of the employer's contributions towards the other creditable coverage; and

(3) The employee requests enrollment no more than thirty days after loss of the other creditable coverage.

(c) For plan years beginning after June 30, 1997, if a health benefit plan makes coverage available to an employee's dependents, the plan shall provide that if an employee is enrolled under the plan or has met any waiting period requirement and is eligible for enrollment but for a failure to enroll during a previous enrollment period:

(1) The employee or a person who becomes a dependent of the employee through marriage, birth, adoption or placement for adoption may be enrolled under the plan, and in the case of the birth or adoption of a child, the employee's spouse who is otherwise eligible for coverage may be enrolled as a dependent, during a period of at least thirty days beginning on the later of the date dependent coverage is made available or the date of the marriage, birth, adoption or placement for adoption; and

(2) If the employee requests enrollment of a dependent during the first thirty days that dependent coverage is available, the dependent's coverage shall become effective:

(A) In the case of marriage, no later than the first day of the first month after the date the

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completed enrollment request is received; or

(B) In the case of a dependent's birth, adoption or placement for adoption, as of the date of birth, adoption or placement for adoption.

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