WEST VIRGINIA CODE: §33-48-4

§33-48-4. Eligibility.

(a) The following persons are eligible for plan coverage:

(1) Any individual who is and continues to be a resident of this state if evidence is provided; of a notice of rejection or refusal to issue substantially similar insurance for health reasons by one insurer or of a refusal by an insurer to issue insurance except at a rate exceeding the plan rate, except that a rejection or refusal by an insurer offering only stop loss, excess of loss or reinsurance coverage shall not be sufficient evidence under this subdivision;

(2) Any individual who is legally domiciled in this state and is eligible for the credit for health insurance costs under Section 35 of the Internal Revenue Code of 1986; and

(3) Any federally defined eligible individual who has not experienced a significant break in coverage and who is and continues to be a resident of this state.

(b) The board shall promulgate a list of medical or health conditions for which a person is eligible for plan coverage without applying for health insurance coverage pursuant to subdivision (1), subsection (a) of this section. Persons who can demonstrate the existence or history of any medical or health conditions on the list promulgated by the board are not required to prove the evidence specified in said subdivision. The list shall be effective on the first day of the operation of the plan and may be amended, from time to time, as may be appropriate.

(c) Each dependent of a person who is eligible for plan coverage is also eligible for plan coverage.

(d) A person is not eligible for coverage under the plan if:

(1) The person has or obtains health insurance coverage substantially similar to or more comprehensive than a plan policy or would be eligible to have coverage if the person elected to obtain it, except that:

(A) A person may maintain other coverage for the period of time the person is satisfying any preexisting condition waiting period under a plan policy; and

(B) A person may maintain plan coverage for the period of time the person is satisfying a preexisting condition waiting period under another health insurance policy intended to replace the plan policy;

(2) The person is determined to be eligible for health care benefits under the state Medicaid law or the West Virginia Children's Health Insurance Program;

WV Legislature

(3) The person has previously terminated plan coverage unless twelve months have lapsed since such terminations, except that this subdivision does not apply with respect to an applicant who is a federally defined eligible individual or with respect to an applicant who has exhausted annual benefits under the West Virginia Children's Health Insurance Program;

(4) The plan has paid out $1 million in benefits on behalf of the person;

(5) The person is an inmate or resident of a public institution, except that this subdivision does not apply with respect to an applicant who is a federally defined eligible individual; or

(6) The person's premiums are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider.

(e) Coverage shall cease:

(1) On the date a person is no longer a resident of this state;

(2) On the date a person requests coverage to end;

(3) Upon the death of the covered person;

(4) On the date state law requires cancellation of the policy; or

(5) At the option of the plan, thirty days after the plan makes any inquiry concerning the person's eligibility or place of residence to which the person does not reply.

(f) Except under the circumstance described in subsection (d) of this section, a person who ceases to meet the eligibility requirements of this section may be terminated at the end of the policy period for which the necessary premiums have been paid.

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