

230-RICR-20-30-5

TITLE 230 - DEPARTMENT OF BUSINESS REGULATIONS

CHAPTER 20 - INSURANCE

SUBCHAPTER 30 - HEALTH INSURANCE

PART 5 - Standards for Readability of Health Insurance Forms

5.1 Authority

This regulation is promulgated pursuant to R.I. Gen Laws §§ 42-62-1, *et seq.*; 42-14.5-1, *et seq.*; 42-14-5; and 42-14-17.

5.2 Purpose

This regulation is intended to make health insurance forms easier to read.

5.3 Definitions

A. As used in this regulation:

1. "Policy" or "policy form" means all health insurance forms required to be submitted to OHIC for approval. These forms include, but are not limited to, certificates of coverage, subscriber agreements, endorsements and modifications to contracts, policies, benefits booklets, and summary plan descriptions.
2. "Carrier" or "insurer" or "health insurance carrier" means any entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the health insurance commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including, without limitation, an insurance company offering accident and sickness insurance, health insurer, dental insurer, nonprofit hospital service corporation, nonprofit medical service corporation, nonprofit dental service corporation, nonprofit optometric service corporation, association, fraternal benefit society, health maintenance organization or similar entity subject to the provisions of R.I. Gen. Laws Title 27, or any other entity providing a plan of health insurance or health benefits by which health care services are paid or financed for an eligible individual or his or her dependents by such entity on the basis of a periodic premium, paid directly or through an association, trust, or other intermediary, and is either issued, renewed, or delivered within Rhode Island, including a certificate issued that evidences coverage under a policy or contract issued to a trust or association.

3. "Health insurance" means any policy, contract, certificate, or agreement offered by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services. It also includes "health insurance coverage," as defined in R.I. Gen Laws §§ 27-18.5-2 and 27-18.6-2; "health benefit plan," as defined in R.I. Gen Laws § 27-50-3; and a "medical supplement policy," as defined in R.I. Gen Laws § 27-18.2-1 or coverage similar to a Medicare supplement policy that is issued to an employer to cover retirees.

5.4 Applicability

- A. This regulation applies to the policy forms of every individual or group health insurance policy, contract, certificate or agreement delivered, issued for delivery, or renewed in Rhode Island on or after August 31, 2010.
- B. Any non-English language policy form delivered or issued for delivery in Rhode Island on or after August 31, 2010 shall be deemed to be in compliance with this regulation if the insurer certifies that the policy is translated from an English language policy that does comply with this regulation.

5.5 Minimum Policy Language Simplification Standards

- A. In addition to any other requirements of law, no policy form may be approved under this regulation, unless:
 1. The text of the policy form does not exceed the eighth-grade reading level as measured by the Flesch-Kincaid formula;
 2. The policy form is printed in not less than twelve-point type, except for type used for specification pages, schedules, tables and minor instructions concerning the preparation of forms by the consumer (e.g., instructions indicating where a consumer should provide his or her name, address or other information);
 3. The style, arrangement and overall appearance of the policy form gives no undue prominence to any portion of the text of the policy or to any endorsements or riders; and
 4. The policy form contains a table of contents or an index of the principal sections of the policy form, if the policy has more than 3,000 words or than three pages regardless of the number of words.
- B. An insurer may use an alternate method or formula for evaluating the readability of a policy form instead of the Flesch-Kincaid formula as long as the insurer can demonstrate that the alternate method or formula can be used to determine a reading level at or below the eighth-grade reading level.

- C. If a policy form contains 10,000 or fewer words of text, the entire form shall be analyzed by the health insurer for compliance with subsection (1) of this section. If a policy form contains more than 10,000 words of text, two 200-word samples per page may be analyzed by the health insurer for compliance with subsection (1) of this section instead. The samples shall be separated by at least 10 printed lines.
- D. The term “text” as used in this section shall include all printed matter except the following:
1. The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and sub captions; specification pages, schedules or tables; and
 2. Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, however, the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.
- E. At the option of the insurer, riders, endorsements, applications and other forms may be scored as separate forms or as part of the policy with which they may be used.
- F. Policy forms subject to this regulation shall be accompanied by a certificate signed by an officer of the insurer, or someone else who has specific authority to sign on behalf of and bind the insurer, that provides a Flesch-Kincaid grade score (to the closest tenth of a point) for the policy form and
1. A certification that the policy form meets the minimum reading level requirement and other standards set out by this section; or
 2. A statement that the policy form does not meet the minimum reading level requirement and/or other standards set out by this section, but requests approval of the policy form pursuant to § 5.6 of this Part.
- G. To confirm any certification, the health insurance commissioner may require the submission of further information to verify the certification in question.
- H. A failure to comply with the requirements of either § 5.5(F) of this Part will result in rejection of the policy form.

5.6 Power of the Commissioner to Approve a Higher Reading Level

- A. Every request by a carrier for approval pursuant to this shall include a statement explaining why the request is being sought and shall provide documentation and information to support the request.
- B. The commissioner may authorize a level higher than an eighth-grade reading level required by § 5.5 of this Part or a waiver or modification of the other standards established by § 5.5 of this Part whenever, in his sole discretion, he finds that a higher level or a waiver or modification of the other standards:
 - 1. Will provide a more accurate reflection of the readability of a policy form;
 - 2. Is warranted by the nature of a particular policy form or type or class of policy forms; or
 - 3. Is caused by certain policy language that is drafted to conform to the requirements of any state law, regulation or agency interpretation.

5.7 Approval of Forms

A policy form meeting the requirements of § 5.5(A) of this Part shall be approved notwithstanding the provisions of any other laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

5.8 Severability

If any provision of this regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this regulation are severable.