HOUSE BILL NO. 534

AN ACT TO AMEND SECTION 83-9-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF CLAIMS UNDER HEALTH INSURANCE POLICIES WHICH INCLUDE COVERED BENEFITS FOR EYE AND DENTAL CARE ARE NOT PAID IN A TIMELY MANNER, THE INSURER SHALL PAY THE INSURED A CERTAIN AMOUNT OF INTEREST PER MONTH UNTIL THE CLAIM IS SETTLED OR ADJUDICATED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-9-5, Mississippi Code of 1972, is amended as follows:

83-9-5. (1) Required provisions. Except as provided in subsection (3) of this section, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section. However, the insurer may, at its option, substitute for one or more of such provisions, corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No
agent has authority to change this policy or to waive any of its provisions.

(b) A provision as follows:

Time limit on certain defenses:

1. After two (2) years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(The foregoing policy provision shall not be so construed as to effect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of subparagraphs (2)(a) and (2)(b) of this section in the event of misstatement with respect to age or occupation.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements in the application.)

2. No claim for loss incurred or disablement (as defined in the policy) commencing after two (2) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name
or specific description effective on the date of loss had existed
prior to the effective date of coverage of this policy.

(c) A provision as follows:

Grace period: A grace period of seven (7) days for weekly
premium policies, ten (10) days for monthly premium policies and
thirty-one (31) days for all other policies will be granted for
the payment of each premium falling due after the first premium,
during which grace period the policy shall continue in force.

(A policy which contains a cancellation provision may add, at
the end of the above provision, "subject to the right of the
insurer to cancel in accordance with the cancellation provision
hereof."

A policy in which the insurer reserves the right to refuse
any renewal shall have, at the beginning of the above provision,
"unless not less than five (5) days prior to the premium due date
the insurer has delivered to the insured or has mailed to his last
address as shown by the records of the insurer written notice of
its intention not to renew this policy beyond the period for which
the premium has been accepted.")

(d) A provision as follows:

Reinstatement: If any renewal premium be not paid within the
time granted the insured for payment, a subsequent acceptance of
premium by the insurer or by any agent duly authorized by the
insurer to accept such premium, without requiring in connection
therewith an application for reinstatement, shall reinstate the
policy. However, if the insurer or such agent requires an
application for reinstatement and issues a conditional receipt for
the premium tendered, the policy will be reinstated upon approval
of such application by the insurer or, lacking such approval, upon
the forty-fifth day following the date of such conditional receipt
unless the insurer has previously notified the insured in writing
of its disapproval of such application. The reinstated policy
shall cover only loss resulting from such accidental injury as may
be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement. (The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue.)

(e) A provision as follows:

Notice of claim: Written notice of claim must be given to the insurer within thirty (30) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at __________, (insert the location of such office as the insurer may designate for the purpose) or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss-of-time benefit which may be payable for at least two (2) years, an insurer may, at its option, insert the following between the first and second sentences of the above provision: "Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, he shall, at least once in every six (6) months after having given notice of claim, give to the insurer notice of continuance of said
disability, except in the event of legal incapacity. The period
of six (6) months following any filing of proof by the insured or
any payment by the insurer on account of such claim or any denial
of liability in whole or in part by the insurer shall be excluded
in applying this provision. Delay in the giving of such notice
shall not impair the insured's right to any indemnity which would
otherwise have accrued during the period of six (6) months
preceding the date on which such notice is actually given.

(f) A provision as follows:

Claim forms: The insurer, upon receipt of a notice of claim,
will furnish to the claimant such forms as are usually furnished
by it for filing proofs of loss. If such forms are not furnished
within fifteen (15) days after the giving of such notice, the
claimant shall be deemed to have complied with the requirements of
this policy as to proof of loss upon submitting, within the time
fixed in the policy for filing proofs of loss, written proof
covering the occurrence, the character and the extent of the loss
for which claim is made.

(g) A provision as follows:

Proofs of loss: Written proof of loss must be furnished to
the insurer at its said office, in case of claim for loss for
which this policy provides any periodic payment contingent upon
continuing loss, within ninety (90) days after the termination of
the period for which the insurer is liable, and in case of claim
for any other loss, within ninety (90) days after the date of such
loss. Failure to furnish such proof within the time required
shall not invalidate or reduce any claim if it was not reasonably
possible to give proof within such time, provided such proof is
furnished as soon as reasonably possible and in no event, except
in the absence of legal capacity, later than one (1) year from the
time proof is otherwise required.

(h) A provision as follows:

Time of payment of claims:
1. All benefits payable under this policy, or any policy or contract of insurance that includes covered benefits for dental care or eye care, for any loss, other than loss for which this policy provides any periodic payment, will be paid within forty-five (45) days after receipt of due written proof of such loss. Benefits due under the policies and claims are overdue if not paid within forty-five (45) days after the insurer receives proof of loss, necessary medical information and other information essential for the insurer to administer coordination of benefits and subrogation provisions. If such information is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within forty-five (45) days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by such proof is overdue if not paid within forty-five (45) days after such proof is received by the insurer. To calculate the extent to which any benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail to the last known address of the claimant or beneficiary in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

2. Subject to due written proof of loss, all accrued benefits for loss for which this policy provides periodic payment will be paid ________ (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid within forty-five (45) days after receipt of due written proof.

3. If the claim is not denied for valid and proper reasons by the end of such period of forty-five (45) days, the insurer must pay the insured interest on accrued benefits at the rate of one and one-half percent (1-1/2%) per month on the amount of such claim until it is finally settled or adjudicated.
4. In the event the insurer fails to pay benefits when due, the person entitled to such benefits may bring action to recover such benefits, any interest which may accrue as provided in subsection (1)(h)3. of this section and any other damages as may be allowable by law.

(i) A provision as follows:

Payment of claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. When payments of benefits are made to an insured directly for medical care or services rendered by a health care provider, the health care provider shall be notified of such payment. The notification requirement shall not apply to a fixed-indemnity policy, a limited benefit health insurance policy, medical payment coverage or personal injury protection coverage in a motor vehicle policy, coverage issued as a supplement to liability insurance or workers' compensation.

(The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer: "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $__________, (insert an amount which must not exceed One Thousand Dollars ($1,000.00)) to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in
good faith pursuant to this provision shall fully discharge the
insurer to the extent of such payment.

"Subject to any written direction of the insured in the
application or otherwise, all or a portion of any indemnities
provided by this policy on account of hospital, nursing, medical
or surgical services may, at the insurer's option and unless the
insured requests otherwise in writing not later than the time of
filing proofs of such loss, be paid directly to the hospital or
person rendering such services; but it is not required that the
service be rendered by a particular hospital or person.")

(j) A provision as follows:

Physical examinations: The insurer at his own expense shall
have the right and opportunity to examine the person of the
insured when and as often as it may reasonably require during the
pendency of a claim hereunder.

(k) A provision as follows:

Legal actions: No action at law or in equity shall be
brought to recover on this policy prior to the expiration of sixty
(60) days after written proof of loss has been furnished in
accordance with the requirements of this policy. No such action
shall be brought after the expiration of three (3) years after the
time written proof of loss is required to be furnished.

(l) A provision as follows:

Change of beneficiary: Unless the insured makes an
irrevocable designation of beneficiary, the right to change the
beneficiary is reserved to the insured, and the consent of the
beneficiary or beneficiaries shall not be requisite to surrender
or assignment of this policy, or to any change of beneficiary or
beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the
irrevocable designation of beneficiary, may be omitted at the
insurer's option.)
(2) Other provisions. Except as provided in subsection (3) of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section. However, the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows:

Change of occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the most recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable, or prior to date of proof of change in occupation, with the state official
having supervision of insurance in the state where the insured
resided at the time this policy was issued; but if such filing was
not required, then the classification of occupational risk and the
premium rates shall be those last made effective by the insurer in
such state prior to the occurrence of the loss or prior to the
date of proof of change in occupation.

(b) A provision as follows:

Misstatement of age: If the age of the insured has been
misstated, all amounts payable under this policy shall be such as
the premium paid would have purchased at the correct age.

(c) A provision as follows:

Relation of earnings to issuance: If the total monthly
amount of loss of time benefits promised for the same loss under
all valid loss of time coverage upon the insured, whether payable
on a weekly or monthly basis, shall exceed the monthly earnings of
the insured at the time disability commenced or his average
monthly earnings for the period of two (2) years immediately
preceding a disability for which claim is made, whichever is the
greater, the insurer will be liable only for such proportionate
amount of such benefits under this policy as the amount of such
monthly earnings or such average monthly earnings of the insured
bears to the total amount of monthly benefits for the same loss
under all such coverage upon the insured at the time such
disability commences and for the return of such part of the
premiums paid during such two (2) years as shall exceed the pro
rata amount of the premiums for the benefits actually paid
hereunder; but this shall not operate to reduce the total monthly
amount of benefits payable under all such coverage upon the
insured below the sum of Two Hundred Dollars ($200.00) or the sum
of the monthly benefits specified in such coverages, whichever is
the lesser, nor shall it operate to reduce benefits other than
those payable for loss of time.
(The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulations by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner, or any combination of such coverages. In the absence of such definition, such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

(d) A provision as follows:

Unpaid premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(e) A provision as follows:

Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five (5) days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term, the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the
unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(f) A provision as follows:

Conformity with state statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(g) A provision as follows:

Illegal occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured’s commission of or attempt to commit a felony or to which a contributing cause was the insured’s being engaged in an illegal occupation.

(h) A provision as follows:

Intoxicants and narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured’s being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

(3) Inapplicable or inconsistent provisions. If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(4) Order of certain policy provisions. The provisions which are the subject of subsections (1) and (2) of this section, or any corresponding provisions which are used in lieu thereof in
accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse or likely to mislead a person to whom the policy is offered, delivered or issued.

(5) Third-party ownership. The word "insured," as used in Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured, or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

(6) Requirements of other jurisdictions.

(a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, and which is prescribed or required by the law of the state under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

(7) Filing procedure. The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to the cited sections as are necessary, proper or advisable to the administration of said sections. This provision shall not abridge any other authority granted the commissioner by law.
SECTION 2. This act shall take effect and be in force from and after July 1, 2001.