

August 19, 1980

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 11 (1980)

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TO: ALL AUTHORIZED ACCIDENT AND HEALTH INSURERS, INCLUDING ARTICLE IX-C
CORPORATIONS

RE: CHAPTER 67 OF THE LAWS OF 1980, IN RELATION TO COVERAGE OF MENTALLY ILL AND
DEVELOPMENTALLY DISABLED CHILDREN INSURED UNDER A FAMILY CONTRACT

Chapter 67 of the Laws of 1980 amended provisions of the New York Insurance Law relating to coverage under "family contracts" issued by insurers in the following manner:

Section 164(2)(B)(3) was amended to provide that coverage in any family policy "shall include any other unmarried child as a dependent, regardless of age, who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of age nineteen, subject to any pre-existing condition limitation applicable to other dependents..."

Section 164(2)(B)(3) was also amended to provide "that a policy under which coverage of a dependent of the policyholder terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of age nineteen and who is chiefly dependent upon such policyholder for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the policyholder has within thirty-one days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity..."

Section 164(2)(B)(3) was further amended to provide that written notice of possible continued coverage "shall include an explanation of the rights of the dependent with respect to his being enrolled in an accredited institution of learning or his incapacity for self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap."

Section 253(2) was amended to provide that coverage in any family policy "shall include any other unmarried child, regardless of age, who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of age nineteen, so that such child may be considered a dependent."

Section 221(5)(a) was amended to provide "that a policy under which coverage of a dependent of an employee or other member of the insured group terminates at a specified age shall, with respect to an

unmarried child who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of age nineteen and who is chiefly dependent upon such employee or member for support and maintenance, not so terminate while the insurance of the employee or member remains in force and the dependent remains in such condition, if the insured employee or member has within thirty-one days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity...".

Chapter 67 of the Laws of 1980 mandates that mentally ill and developmentally disabled dependents be eligible for coverage under a family accident and health insurance policy at the time of policy issuance, regardless of age. In addition, Chapter 67 mandates that health insurance coverage for mentally ill and developmentally disabled dependents not be terminated due to attainment of the limiting age so long as the condition continues. Finally, Chapter 67 requires that notice of the right to continue coverage for these dependents beyond the limiting age be given to certain policyholders of a family accident and health insurance policy at least 60 days prior to any dependent's attainment of the limiting age.

It continues to be the position of this Department that the premiums to be charged for handicapped dependents should be no higher than the premiums charged for other dependent children. In this way, coverage of mentally retarded, mentally ill, developmentally disabled and physically handicapped dependent children will be provided by a rating structure which results in the sharing of a heavy burden by all "family contract" policyholders.

Chapter 67 became effective on April 8, 1980 and is applicable to all family coverage issued on or after that date.

Insurers that have not already done so, should immediately submit to the Insurance Department for approval appropriate contract amendments to carry out the intent and purpose of Chapter 67 of the Laws of 1980.

ALBERT B. LEWIS

Superintendent of Insurance