

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Bulletin 2018-04-INS

In the matter of

Hospital Indemnity and Fixed Indemnity
Policy Requirements

**Issued and entered
This 6th day of February 2018
by Patrick M. McPharlin
Director**

This bulletin supersedes Bulletin 2016-23-INS.

Bulletin 2016-23-INS, issued on December 23, 2016, set forth requirements applicable to fixed indemnity and hospital indemnity plans in the individual and group markets. One of the requirements was that individual market plans include disclaimer language stating, among other things, that such coverage did not constitute “minimum essential coverage” (MEC) and thus could result in the insured person being subject to the individual shared responsibility penalty (also known as the “individual mandate penalty”) under the Patient Protection and Affordable Care Act.

The Tax Cuts and Jobs Act of 2017 (TCJA), among other things, eliminated the individual shared responsibility penalty effective January 1, 2019. However, the TCJA left intact all other provisions of federal law referring to MEC.

Accordingly, this bulletin notifies issuers of fixed indemnity and hospital indemnity plans with effective dates on or after January 1, 2019, that the required disclaimer language must be modified to exclude language relating to the individual shared responsibility penalty. This is the only difference between the requirements set forth in Bulletin 2016-23-INS and this bulletin. However, for clarity, all of the requirements for individual market fixed indemnity and hospital indemnity plans described in Bulletin 2016-23-INS are restated as follows:

Individual Market Fixed Indemnity and Hospital Indemnity Plans

Individual market fixed indemnity plans qualify as excepted benefits so long as the following conditions are met:

- There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage;

- The benefits are paid in a fixed dollar amount per day or other time period of hospitalization or illness, regardless of the amount of expenses incurred or the type of items or services received; and
- For individual market fixed indemnity policies issued with an effective date on or after January 1, 2015, the following notice must be displayed prominently in the application materials in at least 14-point type: “THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE.”

There are no changes for group market fixed indemnity and hospital indemnity plans. However, for clarity, the requirements for these plans that were set forth in Bulletin 2016-23-INS are restated as follows:

Group Market Fixed Indemnity and Hospital Indemnity Plans

Group market fixed indemnity or hospital indemnity plans qualify as excepted benefits only if the following conditions are met:

- the benefits are provided under a separate policy, certificate, or contract of insurance;
- there is no coordination between the benefits provided and an exclusion of benefits under any group health plan maintained by the same sponsor; and
- the benefits are paid with respect to an event without regard to whether benefits are provided with respect to the event under any group health plan maintained by the same sponsor; and
- the plan pays a fixed dollar amount per day (or other period of time) of hospitalization or illness, regardless of the amount of expenses incurred.

Any questions regarding this bulletin should be directed to:

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/s/

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