TITLE 41
INSURANCE

CHAPTER 21
DISABILITY INSURANCE POLICIES

41-2101. SCOPE OF CHAPTER. Nothing in this chapter shall apply to or affect:

(1) Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein.

(2) Any group or blanket policy.

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means, or as

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(4) Reinsurance.

[41-2101, added 1961, ch. 330, sec. 490, p. 645.]

41-2102. SHORT TITLE. This chapter may be cited as the "uniform disability policy provision law."

[41-2102, added 1961, ch. 330, sec. 491, p. 645.]

41-2103. SCOPE AND FORMAT OF POLICY. No policy of disability insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife and any other dependent or dependents. As used in this subsection (3) and for all new and renewing policies, "dependent" includes an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent, or an unmarried child of any age who is medically certified as disabled and dependent upon the parent;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 41-2105 through 41-2127, Idaho Code, shall be printed, at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "exceptions," or "exceptions and reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the director;

(8) When the policy provides payment for medical or surgical expense to the insured, on a reimbursement basis, or otherwise, the insured shall be entitled to a free choice of medical doctor to perform said services, or the free choice of a podiatrist if the latter is authorized by law to perform the particular medical or surgical services covered under the terms of said policy; and

(9) When the policy provides for payment for the expense of services that are within the lawful scope of practice of a duly licensed optometrist, on a reimbursement basis or otherwise, the insured shall be entitled to a free choice of medical doctor or optometrist to perform such services.

[41-2103, added 1961, ch. 330, sec. 492, p. 645; am. 1965, ch. 47, sec. 1, p. 72; am. 1967, ch. 47, sec. 1, p. 88; am. 2007, ch. 148, sec. 1, p. 427; am. 2009, ch. 125, sec. 1, p. 391.]

41-2104. REQUIRED PROVISIONS -- CAPTIONS -- OMISSIONS -- SUBSTITUTIONS. (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in sections 41-2105 to 41-2116, inclusive, and sections 41-2139 and 41-2140, Idaho Code, of this chapter, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the director which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or sub-captions as the director may approve.

(2) If any such provision 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 director, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

[41-2104, added 1961, ch. 330, sec. 493, p. 645; am. 1972, ch. 348, sec. 1, p. 1030; am. 1974, ch. 66, sec. 1, p. 1146.]

41-2105. ENTIRE CONTRACT -- CHANGES. There shall be a provision as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitute 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."

[41-2105, added 1961, ch. 330, sec. 494, p. 645.]

41-2106. TIME LIMIT ON CERTAIN DEFENSES. (1) There shall be a provision as follows:

"Time Limit on Certain Defenses:

(a) 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 (2) year period.

(b) No claim for loss incurred or disability, 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."

(2) The policy provision of (1)(a) above shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two (2) year period, nor to limit the application of sections 41-2118 through 41-2122, Idaho Code, in the event of misstatement with respect to age or occupation or other insurance.

(3) Notwithstanding the provisions of section 41-2106(2), Idaho Code, if an insurer elects to use a simplified application form, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history, the policy must cover any loss occurring after twelve (12) months from any preexisting condition not specifically excluded from coverage by terms of the policy, and, except as so provided, the policy or contract shall not include wording that would permit a defense based upon preexisting conditions.

(4) A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age fifty (50) or, (b) 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 any statements, other than fraudulent statements, contained in the application."

[41-2106, added 1961, ch. 330, sec. 495, p. 645; am. 1976, ch. 135, sec. 1, p. 507.]

41-2107. GRACE PERIOD. There shall be a provision as follows:

"Grace Period: A grace period of....(insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days 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 in which the insurer reserves the right to refuse renewal shall have, at the beginning of the above provision:

"Unless not less than thirty (30) 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."

[41-2107, added 1961, ch. 330, sec. 496, p. 645.]

41-2108. REINSTATEMENT. (1) There shall be 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; provided, however, that 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."

(2) 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

(a) Until at least age fifty (50), or

(b) In the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue.

[41-2108, added 1961, ch. 330, sec. 497, p. 645.]

41-2109. NOTICE OF CLAIM. (1) There shall be a provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty 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."

(2) 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 years, he shall, at least once in every six months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six 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 months preceding the date on which such notice is actually given."

[41-2109, added 1961, ch. 330, sec. 498, p. 645.]

41-2110. CLAIM FORMS. There shall be 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 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."

[41-2110, added 1961, ch. 330, sec. 499, p. 645.]

41-2111. PROOFS OF LOSS. There shall be 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 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor 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 year from the time proof is otherwise required."

[41-2111, added 1961, ch. 330, sec. 500, p. 645.]

41-2112. TIME OF PAYMENT OF CLAIMS. There shall be a provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities 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 immediately upon receipt of due written proof."

[41-2112, added 1961, ch. 330, sec. 501, p. 645.]

41-2113. PAYMENT OF CLAIMS. (1) There shall be 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."

(2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(a) "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 shall not exceed $1,000), 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."

(b) "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."

[41-2113, added 1961, ch. 330, sec. 502, p. 645.]

41-2114. PHYSICAL EXAMINATION -- AUTOPSY. There shall be a provision as follows:

"Physical Examinations and Autopsy: The insurer at its 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 and to make an autopsy in case of death where it is not forbidden by law."

[41-2114, added 1961, ch. 330, sec. 503, p. 645.]

41-2115. LEGAL ACTIONS. There shall be 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 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 years after the time written proof of loss is required to be furnished."

[41-2115, added 1961, ch. 330, sec. 504, p. 645.]

41-2116. CHANGE OF BENEFICIARY. (1) There shall be 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."

(2) The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

[41-2116, added 1961, ch. 330, sec. 505, p. 645.]

41-2117. OPTIONAL POLICY PROVISIONS. Except as provided in section 41-2104(2), no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth in sections 41-2118 to 41-2127, inclusive, of this chapter unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the director 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 or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the director may approve.

[41-2117, added 1961, ch. 330, sec. 506, p. 645.]

41-2118. CHANGE OF OCCUPATION. There may be 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 more 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."

[41-2118, added 1961, ch. 330, sec. 507, p. 645.]

41-2119. MISSTATEMENT OF AGE. There may be 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."

[41-2119, added 1961, ch. 330, sec. 508, p. 645.]

41-2123. RELATION OF EARNINGS TO INSURANCE. (1) There may be a provision as follows:

"Relation of Earnings to Insurance: 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 years immediately preceding 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 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 $200 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."

(2) 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 (a) until at least age fifty (50), or (b) 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 director, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation 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 director 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.

[41-2123, added 1961, ch. 330, sec. 512, p. 645.]

41-2124. UNPAID PREMIUMS. There may be a provision as follows:

"Unpaid Premiums: 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."

[41-2124, added 1961, ch. 330, sec. 513, p. 645.]

41-2125. CONFORMITY WITH STATE STATUTES. There may be 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."

[41-2125, added 1961, ch. 330, sec. 514, p. 645.]

41-2126. ILLEGAL OCCUPATION. There may be 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."

[41-2126, added 1961, ch. 330, sec. 515, p. 645.]

41-2127. INTOXICANTS AND NARCOTICS. There may be 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."

[41-2127, added 1961, ch. 330, sec. 516, p. 645.]

41-2128. RENEWABILITY. Disability insurance policies, other than accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis, shall provide in substance in a provision thereof or in an endorsement thereon or rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on, or after and nearest, each policy anniversary (or in the case of lapse and reinstatement, at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement), and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force. (The parenthetic reference to lapse and reinstatement may be omitted at the insurer's option.)

[41-2128, added 1961, ch. 330, sec. 517, p. 645.]

41-2129. ORDER OF CERTAIN PROVISIONS. The provisions which are the subject of sections 41-2105 to 41-2127, inclusive, of this chapter, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections 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 that 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.

[41-2129, added 1961, ch. 330, sec. 518, p. 645.]

41-2130. THIRD PARTY OWNERSHIP. The word "insured", as used in this chapter, 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.

[41-2130, added 1961, ch. 330, sec. 519, p. 645.]

41-2131. REQUIREMENTS OF OTHER JURISDICTIONS. (1) 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 this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

(2) 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.

[41-2131, added 1961, ch. 330, sec. 520, p. 645.]

41-2132. POLICIES ISSUED FOR DELIVERY IN ANOTHER STATE. If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance director or corresponding public official of such other state has informed the director that any such policy is not subject to approval or disapproval by such official, the director may by ruling require that the policy meet the standards set forth in section 41-2103 and in sections 41-2104 to 41-2131, inclusive.

[41-2132, added 1961, ch. 330, sec. 521, p. 645.]

41-2133. CONFORMING TO STATUTE. (1) No policy provision which is not subject to this chapter shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

(2) A policy delivered or issued for delivery to any person in this state in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

[41-2133, added 1961, ch. 330, sec. 522, p. 645.]

41-2134. AGE LIMIT. If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

[41-2134, added 1961, ch. 330, sec. 523, p. 645.]

41-2135. PROHIBITED POLICY PLANS -- PROVISIONS. No insurer shall hereafter deliver or issue for delivery in this state any disability insurance policy:

(1) Providing benefits or values for surviving or continuing policyholders contingent upon the lapse or termination of the policies of other policyholders whether by death or otherwise.

(2) Containing any clause, provision or agreement providing a premium, deposit or other payment for, or promising the distribution of, any bonus, special fund, or guaranteed payment other than the insurance benefits specified in the policy. This restriction shall not be construed to apply to the payment of dividends to the holders of participating policies.

[41-2135, added 1961, ch. 330, sec. 524, p. 645.]

41-2136. FILING OF RATES. Each insurer issuing disability insurance policies for delivery in this state shall, before use thereof, file with the director its premium rates and classification of risks pertaining to such policies. The insurer shall adhere to its rates and classifications as filed with the director. The insurer may change such filings from time to time as it deems proper. This section shall not apply to the premium rates or classifications of risks for policies subject to chapter 47 or 52, title 41, Idaho Code.

[41-2136, added 1961, ch. 330, sec. 525, p. 645; am. 1995, ch. 360, sec. 1, p. 1236.]

41-2137. FRANCHISE DISABILITY INSURANCE LAW. Disability insurance on a franchise plan is hereby declared to be that form of disability insurance issued to:

(1) Four (4) or more employees of any corporation, copartnership, or individual employer or any governmental corporation, agency or department thereof; or

(2) Ten (10) or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or by-laws and is formed in good faith for purposes other than that of obtaining insurance; where such persons with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association or union for its members, or by some designated person acting on behalf of such employer or association or union. The term "employees" as used herein may be deemed to include the officers, managers and employees and retired employees of the employer and the individual proprietor or partnership.

[41-2137, added 1961, ch. 330, sec. 526, p. 645.]

41-2138. HEALTH INSURANCE -- TEN-DAY FREE EXAMINATION. (1) Except as to nonrenewable accident policies and individual credit health insurance policies, every individual health insurance policy shall contain a provision therein or in a separate rider attached thereto when delivered, stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such person and to have a refund of the premium paid if after examination of the policy the purchaser is not satisfied with it for any reason. The provision shall be set forth in the policy under appropriate caption, and if not so printed on the face page of the policy adequate notice of the provision shall be printed or stamped conspicuously on the face page.

(2) The policy may be so returned to the insurer at its home or branch office or to the agent through whom it was applied for, and thereupon shall be void as from the beginning and as if the policy had not been issued.

[I.C., sec. 41-2138, as added by 1969, ch. 214, sec. 58, p. 625.]

41-2139. REQUIRED PROVISIONS -- COVERAGE OF DEPENDENT CHILD. There shall be a provision as follows: a policy delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act under which coverage of a dependent of an insured terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of intellectual disability or physical disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such insured for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the insured has within thirty-one (31) days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After the two (2) year period, such subsequent proof may not be required more than once each year.

[41-2139, added 1972, ch. 348, sec. 2, p. 1030; am. 2010, ch. 235, sec. 32, p. 568.]

41-2140. REQUIRED PROVISIONS. (1) Any disability insurance contract delivered or issued for delivery in this state which provides coverage for injury or sickness for newborn dependent children of the insured, shall provide such coverage for such newborn children, including adopted newborn children that are placed with the adoptive insured within sixty (60) days of the adopted child's date of birth, from and after the moment of birth. Coverage under the contract for an adopted newborn child placed with the adoptive insured more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not attained age eighteen (18) years as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive insured, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive insured signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with an insured continues in the same manner as it would with respect to a naturally born child of the insured until the first to occur of the following events:

(a) Date the child is removed permanently from that placement and the legal obligation terminates; or

(b) The date the insured rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

(2) An insurer shall not restrict coverage under a disability insurance policy of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs which the participant or beneficiary is eligible for coverage under the plan.

(3) No policy of disability insurance which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state on or after January 1, 1977, if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions, as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the policy. If a fixed amount is specified in such policy for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the policy. Where the policy contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the policy. This section shall apply to all disability policies except individual noncancelable or guaranteed renewable policies, issued or delivered before January 1, 1977.

With respect to such individual noncancelable or guaranteed renewable policies issued or delivered before January 1, 1977, the insurer shall communicate the availability of coverage of involuntary complications of pregnancy when negotiating any changes in such policies.

For purposes of this section, involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All policies subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1977, shall be construed to be in compliance with this section, and any provision in any such policy which is in conflict with this section shall be of no force or effect.

(4) From and after January 1, 1998, no policy of disability insurance which provides medical expense maternity benefits, shall restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child in a manner that would be in conflict with the newborns' and mothers' health protection act of 1996.

[41-2140, as added by 1974, ch. 66, sec. 2, p. 1146; am. 1976, ch. 113, sec. 1, p. 443; am. 1993, ch. 305, sec. 1, p. 1129; am. 1994, ch. 365, sec. 2, p. 1147; am. 1997, ch. 321, sec. 1, p. 949.]

41-2141. COORDINATION OF BENEFITS -- COORDINATION WITH SOCIAL SECURITY BENEFITS. (1) Under the authority of this section and section 41-2216, Idaho Code, the director shall promulgate rules that are in accordance with the model regulations of the national association of insurance commissioners relating to coordination of benefits provisions in individual and group disability insurance policies. This section shall apply to all policies of individual disability insurance or coverage issued in this state pursuant

to the provisions of chapters 21, 34, 39 and 52, title 41, Idaho Code. These rules shall establish uniformity in the permissive use of provisions governing the coordination of benefits between individual disability policies and between individual disability policies and group disability policies in order to avoid claim delays and misunderstandings that otherwise result from the use of inconsistent or incompatible provisions.

(2) Any provision contained in a policy of disability insurance providing for a reduction of benefits payable under the policy during a policy benefit period due to an increase in benefits payable under the federal social security act, as amended, shall be null and void with respect to any such increase which occurs on or after the effective date of this act.

[41-2141, added 1978, ch. 10, sec. 1, p. 19; am. 1997, ch. 319, sec. 1, p. 942.]

41-2142. LIMITATION OF BENEFITS FOR ELECTIVE ABORTIONS. All policies, contracts, plans or certificates of disability insurance delivered, issued for delivery or renewed in this state after the effective date of this section shall exclude coverage for elective abortions. Such exclusion may be waived by endorsement and the payment of a premium therefor. Availability of such coverage shall be at the option of the insurance carrier. For purposes of this section, an "elective abortion" means an abortion for any reason other than to preserve the life of the female upon whom the abortion is performed.

[41-2142, added 1983, ch. 94, sec. 1, p. 207.]

41-2143. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 1990, no disability insurance policy shall be issued in Idaho which excludes from coverage services rendered the insured while a resident in an Idaho state institution, provided the services to the insured would be covered by the disability insurance policy if rendered to him outside an Idaho state institution.

(2) From and after July 1, 1990, no disability insurance policy shall be issued in Idaho which contains any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a policy which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of insurance coverage.

[41-2143, added 1990, ch. 300, sec. 1, p. 828.]

41-2144. MAMMOGRAPHY COVERAGE. (1) From and after July 1, 1992, all disability contracts which provide coverage for the surgical procedure known as a mastectomy which are delivered, issued for delivery, continued or renewed in this state shall provide minimum mammography examination or equivalent examination coverage. Such coverage shall include at least the following benefits:

(a) One (1) baseline mammogram for any woman who is thirty-five (35) through thirty-nine (39) years of age.

(b) A mammogram every two (2) years for any woman who is forty (40) through forty-nine (49) years of age, or more frequently if recommended by the woman's physician.

(c) A mammogram every year for any woman who is fifty (50) years of age or older.

(d) A mammogram for any woman desiring a mammogram for medical cause.

Such coverage shall not exceed the cost of the examination.

(2) As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

(3) Nothing in this section shall apply to specified accident, specified disease, hospital indemnity, medicare supplement, long-term care or other limited benefit health insurance policies.

[41-2144, added 1992, ch. 132, sec. 1, p. 414; am. 1993, ch. 113, sec. 1, p. 288.]

41-2146. COVERAGE PROVIDED TO PERSONS HAVING INSURANCE. An insurer providing individual disability insurance coverage in this state shall make available to citizens of this state major medical disability policies under the terms set forth in this section. An insurer providing only accident-only, credit, dental, vision, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation, or automobile medical payment insurance is not required to comply with the provisions of this section. An insurer providing only specified disease or hospital confinement indemnity insurance in this state shall not be required to comply with the provisions of this section, provided the insurance is marketed as supplemental health insurance and not as a substitute for hospital or major medical expense insurance, and the insurer certifies annually to the director that the insurance is being marketed in a manner consistent with the provisions of this subsection.

(2) As used in this section, the term "major medical disability policies" means policies, including medicare supplement insurance policies, contracts or certificates which are issued to provide hospital and medical-surgical coverage.

(3) Each insurer offering or maintaining individual major medical disability policies in this state shall make current individual policies available to an individual or dependent of an individual currently insured by the insurer, without imposition by the insurer of underwriting criteria whereby coverage of an individual or a dependent of an individual is denied or subject to cancellation or nonrenewal, in whole or in part because of the individual's age, health or medical history or employment status, or, if employed, industry or job classification if the individual is insured with that insurer and wishes to convert coverage to another policy, plan or contract. When offering benefits pursuant to this section, the insurer shall be required to offer equal or lesser benefits than the insured has under the existing policy or plan. If the insurer offers benefits in excess of what was included in the insurer's contract to the insured, the insurer may impose health underwriting criteria and a preexisting condition clause which will waive all or a portion of benefits offered for the first twelve (12) months of the policy for a condition which has occurred during the preceding twelve (12) months. The preexisting condition clause herein authorized may not be applied to the transfer from one (1) medicare supplement policy, contract or certificate to another where benefits are increased. As used herein, "bene-

fits in excess of what was included in the insured's contract" shall include but not be limited to lower deductibles, lower coinsurance or copayments or lower maximum out-of-pocket expenditure for health care. The addition of pharmacy cards to replace existing prescription drug benefits, supplemental accident insurance, chiropractic services or vision services shall not constitute "benefits in excess of what was included in the insured's contract."

In implementing the provisions of this section, the director shall provide that insurers shall provide insureds with a simplified application that shall not exceed one (1) page in length and which shall not exceed six (6) medical questions.

[(41-2146) added 1994, ch. 404, sec. 1, p. 1148; am. and redesig. 1995, ch. 254, sec. 1, p. 832.]