Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila

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Circular Letter No.	2018-66
Date	28 December 2018
Supersedes	None
Amends	CL No. 2017-19

CIRCULAR LETTER

TO : **All Health Maintenance Organizations**

SUBJECT : **Guidelines on Pre-existing Condition, Look-back, Waiting and Free-look Period on Health Maintenance Contracts**

By the powers vested in me by Executive Order No. 192, Series of 2015, this Circular Letter on the Guidelines on Pre-existing Condition, Look-back, Waiting and Free-look Period on Health Maintenance Contracts is hereby promulgated:

Section 1. Rationale

1.1. Pre-existing condition is an injury, illness, or disease that affects the member before the effectivity of a health maintenance contract. Pre-existing condition is normally excluded in the health maintenance contracts to cope with the adverse selection by potential customers and to lower the premium of the contract.

1.2. Adverse selection or antiselection is defined as the tendency of individuals who believe they have a greater-than-average likelihood of loss to seek protection to a greater extent than do other individuals. This may create a situation where people who believe they are in poor health are more likely to apply for life and health maintenance coverage than people who believe that they are in average or good health. Hence, an individual's demand for insurance is positively correlated with the individual's risk of loss.

1.3. Some claims were denied due to pre-existing condition, which is an exclusion in the contract, to the dissatisfaction of the consumers who may not have had full understanding of the provision on pre-existing conditions and its impact when the contract was sold.

1.4. Consumers, however, at the time of their application for such contracts, should be informed of the existence of exclusion of pre-existing condition through its inclusion in sales proposal, marketing materials and brochures that contain the benefits of the contract being sold.

1.5. This Circular Letter is issued to provide certain parameters in the application of pre-existing condition as exclusion in the health maintenance contract.

Section 2. Coverage

2.1 This Circular applies only to the health maintenance contract that contains exclusion from coverage of disease or illness based on or considered as a pre-existing condition (hereinafter called "contract") issued by heath maintenance organization (HMO).

2.2. Specifically, this Circular Letter covers the following contracts:

a) The contract that contains a provision that covers specific disease or illness, but contains exclusion on the disease or illness, although an insured disease or illness, it is considered pre-existing condition.

To illustrate, Product A expressly covers hospitalization expense incurred due to hypertension, but excludes the claim or service based on hypertension considered as pre-existing condition.

b) The contract that covers generally diseases or an illness but provides a provision excluding claim or service based on pre-existing condition.

To illustrate, Product B covers hospitalization expense due to diseases, but excludes claim or service on pre-existing condition.

c) The contract that covers generally diseases or illnesses, and provides exclusion to named disease or illness and to disallow claim or service based on pre-existing condition.

To illustrate, Product C contains provisions similar to Product B, but provides exclusion to some diseases such as cancer, ulcer, and heart attack.

2.3. Even if the above coverage is included as a rider or endorsement in the main contract, the HMO should comply with the requirements of this Circular.

2.4. The contract should clearly provide the definition of the pre-existing condition. In lieu of the "prudent person standard" definition as provided in Item III, Annex A of Circular Letter No. 2017-19, an HMO may apply the "objective standard" definition of pre-existing condition. An objective standard definition of pre-existing condition counts only those conditions for which the member actually received medical advice, diagnosis, care or treatment prior to enrollment as pre-existing condition. In a prudent person standard definition, pre-existing conditions include those conditions that were never diagnosed, but caused symptoms for which an ordinarily prudent person would have sought medical advice, care, or treatment.

2.5. Nothing herein prohibits an HMO to refuse coverage of the specific disease or illness, which denies payment or service to the disease or illness.

Section 3. Free-Look Period (Cooling-off Period)

3.1. A free-look period refers to the number of days provided in the contract pursuant to this Circular, which starts from the time of the receipt of the contract by the member or group contract holder until the last day of the period provided herein, that the consumer may return or cancel the contract, and if ever payment was made, the amount paid shall be returned in full to the consumer.

3.2. The free-look period is intended for those who disagree with the contract conditions after receiving it, such as the presence of pre-existing conditions and exclusions after reading and evaluating the contract, or those who change their mind in buying the contract.

3.3. All contracts covered by this Circular Letter are required to have a free-look period of not less than fifteen (15) days for contracts with effectivity period of more than six (6) months, and not less than five (5) days for contracts with effectivity period of six (6) months or less.

3.4. For group contract, the free-look period is not mandatory; however, the parties to such group contract may agree on the inclusion of the free-look provision.

It is understood that the group contract holders who negotiated and accepted the group contracts in behalf of its members or employees have full knowledge and understanding of its contents.

3.5. In the termination or cancellation of contract in the exercise of the right to free-look period, the requirement to surrender the identification card and contract or agreement under Circular Letter No. 2017-19 is maintained.

Section 4. Look-Back and Waiting Periods

4.1. Look-back period refers to the period in the past in which the condition or disease existed. Contracts with exclusion on pre-existing condition are required to have a maximum look-back period of two (2) years from the effectivity of the contract. It means that any pre-existing injury, disease or illness that existed,

happened or occurred beyond, or earlier than, the look-back period cannot be used as a ground to deny the claim or service for being based on pre-existing condition.

4.2. Waiting period is a period of time either after the issuance or effectivity of the contract which must pass before some or all of the health care services or a select list of disease or illness start getting covered under the contract.

4.3. The waiting period on benefits of pre-existing condition in the contract should not exceed one year from the date of effectivity of the contract. Renewal contract of a previous contract with coverage of one year, or continuous coverage exceeding one year, shall no longer contain an exclusion on pre-existing condition for such previously covered disease or illness. For newly covered disease or illness, the one-year maximum waiting period for such disease or illness applies.

Section 5. Font Size

Pre-existing condition and exclusion provisions in the contract should have at least a font size of Arial 10, and should not be smaller than the font size primarily used on the other provisions of the contract.

Section 6. Disclosure

In order to be transparent with the provision on pre-existing condition as an exclusion prior to the execution of the contract and the right to free-look, HMOs are required to include in their sales proposal, marketing materials and brochures which contain the benefits of the contract, the information that the contract or product contains an exclusion on, or is subject to the provision on, pre-existing condition, and the right to free-look period.

Section 7. Transitory Provisions

No contract, marketing material, or brochure shall be issued after December 31, 2019 without complying with the provisions of this Circular Letter. Contracts issued on or before December 31, 2019 shall continue to be enforced or in effect beyond the period of compliance. Contract form incorporating only the requirements of this Circular and submitted to the Insurance Commission for approval before June 30, 2019 shall be exempt from the payment of filing fee.

Section 8. Separability Clause

If any provision of these Guidelines or any part hereof be declared invalid or unconstitutional, the remainder of the Guidelines or other provisions not otherwise affected shall remain valid and subsisting.

Section 9. Effectivity

This Circular Letter shall take effect immediately.

DENNIS B. FUNA
Insurance Commissioner