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**IDAPA 18
TITLE 01
CHAPTER 29**

18.01.29 - RESTRICTIONS ON DISCRETIONARY CLAUSES IN HEALTH INSURANCE CONTRACTS

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapters 2, 13 and 18, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.29, "Restrictions on Discretionary Clauses in Health Insurance Contracts." (5-8-09)

02. Scope. This rule sets forth uniform requirements regarding the use of discretionary clauses to be followed by health carriers transacting insurance in Idaho. (5-8-09)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying, at cost, in the main office and each regional or district office of this agency. (5-8-09)

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General -- General Provisions. (5-8-09)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. (5-8-09)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (5-8-09)

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (5-8-09)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. (5-8-09)

04. Web Site Address. The department's [website](#). (5-8-09)

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (5-8-09)

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this rule, the following terms shall have the following meanings. (5-8-09)

01. Director. "Director" means the Director of the Idaho Department of Insurance. (5-8-09)

02. Discretionary Clause. "Discretionary clause" means any health insurance contract provision that

provides the health carrier with sole discretionary authority to determine eligibility for benefits or to interpret the terms and provisions of the health insurance contract. (5-8-09)

03. Health Care Services. “Health care services” means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury, or disease. (5-8-09)

04. Health Carrier. “Health carrier” means an entity subject to regulation under Title 41, Chapters 21, 22, 32, 34, 39, 40, 41, 47, 52 or 55, Idaho Code. (5-8-09)

05. Health Insurance Contract. “Health insurance contract” means any policy, contract, certificate, agreement, or other form or document providing, defining, or explaining coverage for health care services that is offered, delivered, issued for delivery, continued, or renewed in this state by a health carrier. For purposes of this rule, “health insurance contract” does not include a contract for group coverage offered by or through an employer to its employees. (5-8-09)

011. DISCRETIONARY CLAUSES.

01. Discretionary Clauses Prohibited. No health insurance contract may contain a discretionary clause. (5-8-09)

02. Required Filing. By the first day of the second month following the effective date of this rule, each health carrier transacting insurance in this state shall submit to the director a list of all health insurance contracts in effect in Idaho that contain discretionary clauses and shall submit a certification that the list is complete and accurate. If a health carrier has no health insurance contracts in effect, the health carrier shall submit a letter to the director reporting and certifying that fact. (5-8-09)

012. EFFECTIVE DATE; EXISTING CONTRACTS; GROUNDS FOR DISAPPROVAL.

01. Effective Date of Rule. This rule is applicable to every health insurance contract that is issued or renewed on or after May 1, 2009. (5-8-09)

02. Contract Compliance. A health insurance contract that was issued before the effective date of this rule shall be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule. (5-8-09)

03. Grounds for Disapproval. Any health insurance contract containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the policyholder and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health insurance contract shall be grounds for the director to disapprove the health insurance contract in accordance with Section 41-1813, Idaho Code. (5-8-09)

013. -- 999. (RESERVED).

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