

Declaratory Ruling 81-2738-M

Continuation of coverage for handicapped dependent children

July 16, 1981

I. BACKGROUND

On February 5, 1981, Crown Life Insurance Company (Crown Life) filed a request for an interpretation of Section 2264 of the Insurance Code of 1956, as amended (Code), MCLA 500.2264; MSA 24.12264, which provides:

Any contract or insurance policy hereinafter delivered in this state providing for hospital care or reimbursement for such care of the policyholders and dependents which provides for termination of dependent coverage at a specified age shall not apply to an unmarried child of the policyholders who is incapable of self-support due to mental retardation or physical handicap, and who is dependent upon such policyholder for support and maintenance, if the policyholder submits satisfactory proof of such dependent's incapacity to the insurance carrier not later than 31 days after the attainment of the age limit by such dependent child.

As stated in its request, Crown Life takes the position that Section 2264:

1. Applies only to hospital coverage continuation for handicapped dependent children.
2. Applies only to continuation of coverage for a handicapped dependent child and does not require an insurer to "pick-up" coverage on a disabled dependent regardless of whether such dependent had prior insurance coverage under a previous carrier and did not have any insurance coverage at all.

A third issue identified in the letter of February 5, 1981, concerning Blue Cross and Blue Shield of Michigan Coverages has been resolved separately.

II. ANALYSIS

A careful examination of the language of Section 2264 and the general intent of the Legislature indicates that all coverage is to continue for incapacitated dependent children after they reach the specified age limit. Section 2264 applies to any contract or insurance policy providing for hospital care reimbursement for such care; it is not limited to insurance policies offering only hospital care benefits. The dependent coverage which shall not be terminated applies to all dependent coverage; the section does not state, as it could have stated, ". . . which provides for termination of dependent coverage at a specified age shall not apply to the hospital care or reimbursement for such care of an unmarried child. . ." Therefore, Section 2264 applies to all policies described by the

section and the restriction on the termination of dependent coverage applies to all dependent coverage. This interpretation is reinforced by a consideration of legislative intent.

If one were to assume, for purposes of argument, that the limitation contained in Section 2264 is ambiguous, the Commissioner of Insurance (Commissioner) should interpret the limitation in a manner to effectuate the intent of the Legislature in enacting Section 2264. (See cases in Notes 181-184.5 following MCLA 8.3.) It is clear that the Legislature sought, by the enactment of Section 2264, to grant incapacitated dependent children a new right of continued health care coverage. If there is ambiguity, it should be resolved in favor of broad continued coverage. An interpretation that limited the continued coverage only to hospital care would be antithetical to the spirit of Section 2264. Moreover, interpreting Section 2264 as providing broad continued coverage to incapacitated children conforms with the general standard for interpreting provisions contained in the Code. As stated in *Commissioner of Insurance v American Life Insurance Co.*, 290 Mich 33, 43; 287 NW 369 (1939):

In our interpretation of the general insurance law in its application to the facts and instant case, we have in mind that the insurance business is affected with a public interest; and that the law should be liberally construed in favor of policyholders, creditors and the public.

The right to broad continued coverage is obviously in the interest of policyholders. It is also in the general interest of the public in that continued insurance coverage restricted to hospital care would discourage utilization of less expensive, alternative treatment systems.

In summary, the close examination of the language of Section 2264, the legislative intent in enacting it, and the public interest all support an interpretation that all dependent coverage contained in policies covered by Section 2264 is continued where the policyholder submits the required proof within the time specified in the section. Section 2264 does not apply only to hospital coverage continuation for incapacitated dependent children.

With regard to the second issue raised by Crown Life, the company's position appears to be correct. The protection extended by Section 2264 is made dependent upon the policyholder submitting satisfactory proof of the dependent's incapacity to the insurance carrier not later than 31 days after the attainment of the age limit by the dependent child. Therefore, an incapacitated child would not be required to be covered by Section 2264 if the policy goes into effect after the incapacitated child has attained the age limit specified in the policy. Of course, there is nothing to prohibit an insurance company from voluntarily agreeing to provide such coverage.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the foregoing considerations, it is FOUND and CONCLUDED that:

1. The Commissioner has authority to issue this declaratory ruling pursuant to Section 63 of the Administrative Procedures Act of 1969, as amended, MCLA 24.263; MSA 3.560(163).
2. There should be a ruling entered stating that Section 2264 requires the continuation of all dependent coverage contained in the contracts and insurance policies described in Section 2264.
3. There should be a ruling entered stating that Section 2264 only applies to continuation of coverage for an incapacitated dependent child.

IV. RULING

I therefore enter this declaratory ruling that:

1. Section 2264 requires the continuation of all dependent coverage contained in the contracts and insurance policies described in Section 2264.
2. Section 2264 only applies to continuation of coverage for an incapacitated dependent child.

The Commissioner specifically retains the authority to prospectively change this declaratory ruling as she shall deem just, necessary, and appropriate.

Nancy A. Baerwaldt
Commissioner of Insurance