

Can my new employer refuse to give me health insurance if I have a pre-existing medical condition?

No, but pre-existing medical conditions may be excluded for up to 12 or 18 months. HIPAA (the Health Insurance Portability and Accountability Act of 1996) is a federal law that limits the amount of time a group health insurance policy can refuse to cover pre-existing medical conditions. HIPAA allows people who are changing jobs to join their new employer's health insurance plan with little or no exclusionary period. HIPAA makes it easier for you to get health insurance coverage for pre-existing medical conditions. However, it does not require employers to offer health insurance or to provide any specific benefits, and it does not limit the costs of insurance premiums.

What is a pre-existing medical condition?

A pre-existing condition is a health/medical condition that you had before you enrolled in a new health plan. Under HIPAA, health/medical conditions can be excluded only if medical advice, diagnosis, or treatment was recommended or received within 6 months before enrolling in the new plan. Even then, the condition can be excluded only for a limited period of time (up to 12 or 18 months).

Pregnancy is not a pre-existing condition under HIPAA, and newborns and newly adopted children cannot be considered as having pre-existing conditions as long as they are enrolled in the health care plan within 30 days of their birth or adoption.

How long can an insurance company exclude coverage for a pre-existing condition?

The exclusionary period for a pre-existing medical condition can last up to 12 months after your enrollment date. (However, if you do not enroll in the new health plan when you are first able to enroll, you are considered a late enrollee, and the exclusion can last up to 18 months). One of the great features about HIPAA is that the exclusionary period is reduced by the number of months of prior insurance coverage you had. You must have had "creditable coverage" with no "significant break" in coverage. This means that if you had other health insurance for the last 12 or months (or 18 months for late enrollees), your new plan could not refuse to cover pre-existing conditions. If you had prior health insurance for less than 12 months, the length of that coverage would reduce the amount of time you would not be covered for pre-existing conditions.

For example, if you had health insurance for the last 4 months before your new coverage began, those 4 months would count toward the 12-month exclusion on pre-existing conditions and you would have to wait only 8 months until your pre-existing conditions would be covered.

What is a "significant break" in coverage?

A "significant break in coverage" is when you have been without health coverage for 63 days or longer. If you have a significant break in coverage, the coverage you had before the break cannot be used as credit against the exclusion for a pre-existing condition. For example, if you had health insurance through your employer for 12 months, and then had no insurance for 3 months, you had a "significant break in coverage." You then cannot count the 12 months of previous insurance against the exclusionary period on your new policy. Your employer must still provide you with the insurance, but your pre-existing medical condition can now be excluded for 12 months.

What counts as "credible coverage"?

Most forms of health care coverage count. This includes group health plans, Cobra coverage, HMO coverage, individual health insurance policies, Medicaid, Medicare and military coverage. It does not include coverage that is only for one type of benefit, such as vision or dental coverage only. Also, it does not include the waiting period for a new health plan. However, the waiting period does not count as a significant break in coverage.

How do you prove you had prior "creditable coverage"?

Under HIPAA, health care plans must provide you (and any of your covered dependents) with a document that tells the amount of creditable coverage you have earned. They are required to provide you with this documentation at specified times. These times include:

- ◆ When you lose coverage under the plan (for example, when you change employers or your employer switches to a new health care plan).
- ◆ When you become eligible to choose COBRA coverage and again when your COBRA coverage ends.
- ◆ Upon request, free of charge, before losing coverage or within 24 months of losing coverage.

When you receive a certificate of coverage, you should check it over carefully to make sure it is correct. If it is wrong, you should contact the plan administrator to have it corrected and reissued. You will need it if you enroll in a new health plan and want to establish your creditable coverage to avoid an exclusionary period. If it is

wrong by even a day it can make a difference, so you should get any errors fixed.

Does HIPAA prevent “medical discrimination?”

In certain instances, yes. It provides that individuals may not be excluded from coverage under the terms of a group health plan or charged more for health benefits based on their mental or physical condition, past insurance claims experience, past history of medical care, their medical history, their genetic information, or evidence of disability. A person also cannot be required to take a physical to be eligible for a group medical plan.

Can I enroll in my employer’s health insurance plan any time?

No. Employers usually have only certain times when you can enroll in the health insurance plan. However, HIPAA requires the employer to allow special enrollment for marriage, birth, adoption, or if you have lost health insurance coverage under another plan.

What if I have a problem?

HIPAA provides three ways of handling problems and complaints. If you have a problem, you can:

1. Make a complaint to the Indiana Department for Insurance.
2. Make a complaint to the US Department of Labor.
3. Hire an attorney and bring your own lawsuit against a group health plan.

Where can I get more information?

You can contact the US Department of Labor at 1-800-998-7542 and request a free booklet called “Questions and Answers: Recent Changes in Health Care Law.” You can also get more information on the internet at: www.dol.gov/dol/topic/healthiplans/portability.htm. You can contact the Indiana Department of Insurance at 1-800-622-4461. You can get more information from the Indiana Department of Insurance and fill out a complaint form at www.in.gov/idoi/.

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HEALTH INSURANCE AND PRE-EXISTING CONDITIONS

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