

**Title 23. Public Utilities and Regulated Industries**  
**Chapter I. State Insurance Department, Department of Commerce**  
**Subchapter B. Life, Health, and Accident**  
**Part 92. Minimum Standards for Individual Policies or Certificates Issued Upon Conversion from a Group Disability Insurance Policy**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION 2. AUTHORITY

This rule is issued pursuant to the authority vested in the Commissioner under Ark. Stat. Ann. §§66-2026, 66-2111, and 66-3732."

"SECTION 4. EFFECTIVE DATE

The provisions of this rule shall become effective January 1, 1988, as to all policies and certificates filed with the Department for approval. Any policy or certificate delivered or issued for delivery in this State on or after January 1, 1988 must be in compliance with the provisions of this rule."

"SECTION 24. SEVERABILITY

Any section or provision of this rule held by a court to be invalid or unconstitutional will not affect the validity of any other section or provision."

**Subpart 1. Generally**

**23 CAR § 92-101. Purpose.**

The purpose of this part is to implement Arkansas Code § 23-86-115, so as to provide minimum standards for policies, certificates, or contracts, hereinafter referred to as "the converted policy", issued pursuant to a conversion privilege under a policy or contract of group insurance, including, but not limited to, group policies issued by:

- (1) Insurance companies;
- (2) Hospital and medical service corporations;
- (3) Health maintenance organizations;
- (4) Certificates of fraternal benefit societies; and
- (5) Self-insurers not excluded from the jurisdiction of the State Insurance Department by Arkansas Code § 23-61-501 et seq.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-102. Scope.**

This part shall apply to all of the converted policies and certificates delivered or issued for delivery on or after the effective date hereof and should be read in addition to and supplementary to Arkansas Code § 23-86-115.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-103. Definitions.**

No converted policy delivered or issued to be delivered in this state shall contain definitions that do not comply with 23 CAR § 86-104, which is hereby incorporated by reference.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-104. Time limit.**

Written application for the converted policy shall be made and the first premium paid to the insurer not later than thirty (30) days after such termination.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-105. Evidence of insurability.**

The converted policy shall be issued without evidence of insurability.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-106. Effective date of coverage.**

The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-107. Scope of coverage.**

(a) The converted policy shall cover the employee or member and his or her dependents who were covered by the group policy on the date of termination of insurance.

(b) At the option of the insurer, a separate converted policy may be issued to cover any dependent.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-108. Optional coverage.**

(a) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded).

(b) Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(1) Either:

(A) Such person is covered for similar benefits by:

(i) Another:

(a) Hospital, surgical, medical, or major medical expense insurance policy;

(b) Hospital or medical service subscriber contract; or

(c) Medical practice or other prepayment plan; or

(ii) Any other plan or program;

(B) Such person is eligible for similar benefits (whether or not covered therefor) under any arrangement of coverage for individuals in a group, whether on uninsured or insured basis; or

(C) Similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law; and

(2)(A) The benefits provided under the sources referred to in subdivision (b)(1)(A) of this section for such person, or benefits provided or available under the sources referred to in subdivisions (b)(1)(B) and (C) of this section for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards.

(B) The insurer's standards must:

(i) Bear some reasonable relationship to actual healthcare costs in the area in which the insured lives at the time of conversion; and

(ii) Be filed with the Insurance Commissioner prior to their use in denying coverage.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-109. Information requested by insurer.**

(a) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered thereunder as to whether:

(1) He or she is covered for similar benefits by:

(A) Another:

(i) Hospital, surgical, medical, or major medical expense insurance policy;

(ii) Hospital or medical service subscriber contract; or

(iii) Medical practice or other prepayment plan; or

(B) Any other plan or program;

(2) He or she is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(3) Similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(b) The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person insured thereunder the following reasons only:

(1) Either the:

(A) Benefits provided under the sources referred to in subdivision (a)(1) or (2) of this section for such person, or benefits provided or available under the sources referred to in subdivision (a)(3) of this section for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards on file with the Insurance Commissioner; or

(B) Converted policyholder fails to provide the requested information;

(2) Fraud or material misrepresentation in applying for any benefits under the converted policy;

(3) Eligibility of the insured person for coverage under:

(A) Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded); or

(B) Any other state or federal law providing for benefits similar to those provided by the converted policy; or

(4) Other reasons approved by the commissioner.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-110. Benefits offered.**

(a) An insurer shall not be required to issue a converted policy that provides benefits in excess of those provided under the group policy from which conversion is made.

(b) The converted policy may contain any exclusion, reduction, or limitation contained in the group policy and any exclusion, reduction, or limitation customarily used in individual health policies delivered or issued for delivery in this state, unless those provisions conflict with any parts of this rule.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-111. Preexisting condition.**

(a)(1)The converted policy shall not exclude a preexisting condition not excluded by the group policy.

(2) However, the converted policy may provide that any hospital, surgical, or medical benefits payable thereunder may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance thereunder.

(b) The converted policy may also include provisions so that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and in effect.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-112. Optional coverage — Hospitalization or surgical expense.**

(a) Subject to the provisions and conditions of this part, if the group insurance policy from which conversion is made insures the employee or member for basic hospital or surgical expense insurance, the employee or member shall be entitled to

obtain a converted policy providing coverage on an expense-incurred basis under plans meeting the following requirements:

(1) Plan A:

(A) Hospital room and board daily expense benefits in a maximum dollar amount approximately the average semiprivate rate charged in metropolitan areas of this state, for a maximum duration of seventy (70) days;

(B) Miscellaneous hospital expense benefits of a maximum amount of ten (10) times the hospital room and board daily expense benefits; and

(C) Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of eight hundred dollars (\$800);

(2) Plan B:

(A) Hospital room and board daily expense benefits in a maximum dollar amount equal to seventy-five percent (75%) of the maximum dollar amount determined for Plan A, for a maximum duration of seventy (70) days;

(B) Miscellaneous hospital expense benefits of a maximum amount of ten (10) times the hospital room and board daily expense benefits; and

(C) Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of six hundred dollars (\$600); or

(3) Plan C:

(A) Hospital room and board daily expense benefits in a maximum dollar amount equal to fifty percent (50%) of the maximum dollar amount determined for Plan A, for a maximum duration of seventy (70) days;

(B) Miscellaneous hospital benefits of a maximum amount of ten (10) times the hospital room and board daily expense benefits; and

(C) Surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual

health insurance policies and providing a maximum benefit of four hundred dollars (\$400).

(b)(1) The maximum dollar amount in Plan A is determined to be one hundred fifty dollars (\$150).

(2) A redetermination may be made once in three (3) years.

(3) The maximum dollar amounts in Plans A, B, and C shall be rounded to the nearest multiple of ten dollars (\$10.00).

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-113. Optional coverage — Major medical.**

Subject to the provisions and conditions of this part, if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(1) A maximum benefit at least equal to either, at the option of the insurer, subdivision (1)(A) or (1)(B) of this section:

(A) The smaller of the following amounts:

(i) The maximum benefit provided under the group policy; or

(ii) A maximum payment of two hundred fifty thousand dollars (\$250,000) per covered person for all covered medical expenses incurred during the covered person's lifetime; or

(B) The smaller of the following amounts:

(i) The maximum benefit provided under the group policy; or

(ii) A maximum payment of two hundred fifty thousand dollars (\$250,000) for each unrelated injury or sickness;

(2)(A) Payment of benefits at the rate of eighty percent (80%) of covered medical expenses that are in excess of the deductible until twenty percent (20%) of such expenses in a benefit period reaches one thousand dollars (\$1,000), after which

benefits will be paid at the rate of one hundred percent (100%) during the remainder of such benefit period.

(B) Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than fifty percent (50%);

(3)(A) A deductible for each benefit period that, at the option of the insurer, shall be the:

- (i) Sum of the benefits deductible and one hundred dollars (\$100); or
- (ii) Corresponding deductible in the group policy.

(B) The term "benefits deductible", as used herein, means the value of any benefits provided on an expense incurred basis that are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy, hospital or medical service subscriber contract, medical practice or other prepayment plan, or any other plan or program, whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law and if, pursuant to 23 CAR § 92-114, the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

(C) If the maximum benefit is determined by subdivision (1)(B) of this section, the insurer may require that the deductible be satisfied during a period of not less than:

(i) Three (3) months if the deductible is one hundred dollars (\$100) or less; and

(ii) Six (6) months if the deductible exceeds one hundred dollars (\$100);

(4) The benefit period shall be:

(A) Each calendar year when the maximum benefit is determined by subdivision (1)(A) of this section; or

(B) Twenty-four (24) months when the maximum benefit is determined by subdivision(1)(B) of this section; and

(5)(A) The term "covered medical expenses", as used above, shall include at least, in the case of hospital room and board charges, the lesser of the dollar amount in Plan A and the average semiprivate room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit.

(B) Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a one thousand six hundred-dollar maximum benefit.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-114. Benefit plans under 23 CAR §§ 92-112 and 92-113.**

(a)(1) The conversion policy shall, if the group insurance policy insures that employee or member for basic hospital or surgical expenses insurance, make available the plans of benefits as set forth in 23 CAR §§ 92-112 and 92-113.

(2) At the option of the insurer, such plans of benefits may be provided under one (1) policy.

(b)(1) The insurer may also, in lieu of the plans of benefits set forth in 23 CAR §§ 92-112 and 92-113, provide a policy of comprehensive medical expense benefits without first-dollar coverage.

(2) Such policy shall conform to the requirements of this section, provided, however, that an insurer electing to provide such a policy shall make available a:

(A) Low-deductible option not to exceed one hundred dollars (\$100);

(B) High-deductible option between five hundred dollars (\$500) and one thousand dollars (\$1,000); and

(C) Third deductible option midway between the high-deductible and low-deductible options.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-115. Alternate plans.**

The insurer may, at its option, also offer alternative plans with benefits in excess of those required by this part.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-116. Coverage of retirement.**

In the event coverage would be continued under the group policy on an employee following his or her retirement prior to the time he or she is or could be covered by Medicare, he or she may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had his or her insurance terminated at retirement by reason of termination of employment or membership.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-117. Coordination of benefits due to Medicare.**

The converted policy may provide for coordination of benefits provided under:

- (1) Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded); or
- (2) Any other governmental programs with the exception of Medicaid.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-118. Conversion privilege allowed.**

Subject to the conditions set forth above, the conversion privilege shall also be available:

- (1) To the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of such continuation;

(2) To the spouse of the employee or member who remains insured under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time; or

(3) To a child solely with respect to himself or herself upon termination of his or her coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-119. Benefit levels.**

If the benefit levels required in 23 CAR § 92-112 exceed the benefit levels provided under the group policy, the conversion policy may offer benefits that are substantially similar to those provided under the group policy in lieu of those required in 23 CAR § 92-112.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-120. Group in lieu of individual coverage.**

(a) Nothing contained herein shall be construed to prevent the insurer from providing group coverage rather than the issuance of a converted individual policy.

(b)(1) Any certificate of insurance issued pursuant to this part must comply with every provision of this part, including 23 CAR § 92-121, conversion premium.

(2) Every premium rate charged for a certificate of insurance must be approved prior to its use in this state.

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.

**23 CAR § 92-121. Conversion premium.**

(a)(1) The initial premium for the converted policy for the first twelve (12) months and subsequent renewal premiums shall be determined in accordance with premium rates applicable to:

(A) Individually underwritten standard risks;

(B) The age and class of risk of each person to be covered under the converted policy; and

(C) The type and amount of insurance provided.

(2) The experience under converted policies shall not be an acceptable basis for establishing rates for converted policies.

(b) However, if an insurer experiences incurred losses, for a period of two (2) years, on conversion policies that have been in force for at least one (1) year, that exceed earned premiums, the insurer may file with the Insurance Commissioner amended renewal rates for the subsequent year that will produce a loss ratio of not less than one hundred percent (100%).

**Authority.** Arkansas Code §§ 23-61-108, 23-79-119.