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May 27, 2022

Laura Arp  
The Nebraska Department of Insurance  
PO Box 82089  
Lincoln, Nebraska 68501-2089

Andrew Schallhorn  
Oklahoma Insurance Department  
400 NE 50th Street  
Oklahoma City, OK 73105

**Re: Disability Insurance**

Dear Ms. Arp and Mr. Schallhorn:

Thank you for soliciting comments. The Health Benefits Institute is a group of agents, brokers, insurers, employers, benefit platforms and others seeking to protect the ability of consumers to make their own health care financing choices. We support policies that expand consumer choice and control, promote industry standards, educate consumers on their options and foster high quality health outcomes through transparency in health care prices, quality, and the financing mechanisms used to pay for care.

**Disability Insurance**

It is important to understand that disability insurance is different in a variety of ways. Unlike many of the other products in the accident and sickness model, it is linked directly to employment. Benefits are typically paid out based on an employee's income – at either a maximum benefit level or  $66\frac{2}{3}$  (or some other percentage) of the employee's income. The amount is usually lower in compensation than the employee would receive if they returned to work.

Both employers and employees purchase disability coverage to supplement the employer's benefit package which may include sick leave, paid time off (PTO) or other benefits that provide employees coverage outside the disability plan. Employer benefits typically reimburse employees at a higher amount (i.e. replacing their normal income) for some shorter period of time that varies from employer to employer.

**Reduced Coverage**

As our members understand how disability coverage operates, we believe the current language is at best confusing and more likely inaccurate. The language states the following:

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- (1) Provides that periodic payments that are payable at ages after sixty-two (62) and reduced solely on the basis of age are at least fifty percent (50%) of amounts payable immediately prior to sixty-two (62);

We believe the language is intended to reflect the fact that insurers are obligated to provide coverage to reflect that the insurer should pay the maximum benefit (i.e. the number of days, months, or years of coverage) until the consumer's normal retirement age. Insurers will not actually reduce the amount of periodic payments contracted for, but rather stop making payments at the retirement age. This should reflect current disability policy.

We would suggest the following language to clarify the issue:

- (1) *Provides that periodic payments that are payable at ages after sixty-two as calculated by the Age Discrimination in Employment Act schedule I or schedule II or until social security normal retirement age (SSNRA) as determined by the policy.*

*Drafting Note: The intent of this section is to ensure that disabled employees who are covered under a disability policy are covered under their maximum time benefit or until their social security normal retirement age (specifically when the disabled employee is able to claim 100% of their social security benefits). Some employer plans may be covered under the Age Discrimination in Employment Act which may require a different benefit schedule.*

### **Elimination Periods**

The current language includes significant employer flexibility surrounding the elimination period of benefits. We believe preserving this language is vital. The current language states:

- (2) Contains an elimination period no greater than: (a) Ninety (90) days in the case of a coverage providing a benefit of one year or less; (b) One hundred and eighty (180) days in the case of coverage providing a benefit of more than one year but not greater than two (2) years; or (c) Three hundred sixty five (365) days in all other cases during the continuance of disability resulting from sickness or injury;

We urge the committee not to reduce consumer options in purchasing elimination periods. We agree with the general comments that support the affordability of coverage – ensuring that consumers can continue to afford this coverage. More importantly is the impact on employer benefits. Shortening elimination time frames will lead to employers reducing employee benefits like sick leave and PTO which typically pay 100% of salary for an insured benefit which provides less than 100% of salary.

### **Pregnancy Coverage**

It is our understanding that current disability policies cover disability arising from pregnancy the same as any other disability. As a result, we believe this section can be deleted.

We hope you find these comments helpful. Please do not hesitate to contact me if you have further questions at [jpwieske@thehealthbenefitsinstitute.org](mailto:jpwieske@thehealthbenefitsinstitute.org) or (920) 784-4486.

Sincerely

A handwritten signature in green ink, appearing to read "JP Wieske", with a long horizontal flourish extending to the right.

JP Wieske  
Executive Director