

Preexisting condition exclusion provisions in Vermont pre-ACA

Jennifer Carbee, Legislative Counsel

February 13, 2019

8 V.S.A. § 4080a (repealed in 2012, effective January 1, 2014)

- Applicable to **small group** plans
 - “small group” defined as 1-50 employees, including self-employed individuals
- For **12 months** from effective date of coverage, insurers allowed to limit coverage of preexisting conditions that existed during the **six-month period** before the effective date of coverage unless the employee and dependents produce evidence of substantially equivalent, continuous health coverage during the previous **nine months** without a break in coverage of **90 days** or more

8 V.S.A. § 4080b (repealed in 2012, effective January 1, 2014)

- Applicable to **nongroup** (aka individual) plans
 - “individual” defined as a person who is not eligible for group health insurance
- For **12 months** from effective date of coverage, insurers allowed to limit coverage of preexisting conditions that existed during the **12-month period** before the effective date of the coverage unless the employee and dependents produce evidence of substantially equivalent, continuous health coverage during the previous **nine months** without a break in coverage of **63 days** or more
- Exception for HIPAA-eligible individuals (see below)

	Small group plans	Individual plans
Definition	“ Small group ” means 1-50 employees, including self-employed	“ Individual ” means a person who is not eligible for group health insurance
Exclusion period	Up to 12 months	Up to 12 months
Look-back period	6 months	12 months
Exemption from exclusion for prior continuous coverage	Coverage during previous 9 months without break of 90 days or more	Coverage during previous 9 months without break of 63 days or more

Federal HIPAA preexisting condition exclusion provisions pre- (and likely post-?) ACA

- For group plans, look-back period maximum of six months; preexisting condition exclusion period maximum of 12 months (18 months if signed up late for plan)
 - Must reduce exclusion day-for-day by prior creditable coverage
 - Exemption for prior continuous coverage without break of 63 days or more
- For individual plans, no preexisting condition exclusions for certain individuals (for all others, HIPAA provisions do not apply) who:
 - Had at least 18 months of prior continuous coverage without a break of more than 63 days
 - Have exhausted COBRA or other continuation coverage
 - Not be eligible for new group plan or Medicare
 - Had more recent coverage in a group health plan