

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2318

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2318

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2318**

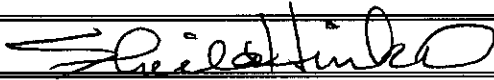
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 30, 2007**

Recorder Job Number: **2281**

Committee Clerk Signature



*Insurance deletion of subsections.:*

**Connie Hofland – American Family Rep - In Favor**

**TESTIMONY # 1** Covered testimony

Want to delete subsection is because it's antiquated and it's in conflict with newer coordination of benefits.

**S Klein:** So this is clarifying the law. What does it do?

**C Hofland:** There is a provision in subsection I for coordination of benefits, and how coverage is proportional.

**Q? F?**

**Vance Magneson - In Favor**

Covered testimony on health policy and health service contract coordination of benefit provisions.

**S Potter:** Can you recall listening to S Lipps in 1980's, late '70s on the success of passing legislation to forbid coordination?

**V Magneson:** that is correct. I think it was in the 90's. The language was added specifically for hospital benefits.

**Q? F? N?**

**CLOSE**

**S Hacker:** I hope this doesn't supersede the law.



**REPORT OF STANDING COMMITTEE**

**SB 2318: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 was placed on the Eleventh order on the calendar.**

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2318

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2318

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: 03-06-2007

Recorder Job Number: 4470

Committee Clerk Signature

*Lisa M Thomas*

Minutes:

**Chairman Keiser opened the hearing on SB 2318.**

**Pat Ward, American Family Insurance,** introduced the bill. See written testimony.

**Rep. Kasper:** I sell these types of policies and I'm licensed with American Family, one of the policies that comes to mind that is sold a lot in North Dakota is cancer insurance. We have clients who have multiple cancer insurance policies from different companies. It could be from Aflac, a Blue Cross policy. When they own two policies, they expect because they are paying the premium if a claim occurs to be able to be paid from both policies according to what the policy benefits state. I want to be sure that is what is going to happen. If we are striking this language are we going to take away the requirements and maybe it isn't a requirement and then we really have a problem?

**Ward:** As I understand it, this bill applies to health policies, benefit policies. It doesn't apply to limited benefit policies. But as I understand it, if there are any IT regulations on the books in place to deal with these priorities and there is a priority of payments under these health policies that would still be there. We are not eliminating that requirement. We are just changing from proportion of that to the payment system that is under the new regulation.



**Rep. Amerman:** I work at Bobcat and I have insurance policy through the blues. As a state representative when I am up here I also have a policy through PERS. I have a claim, will they both be able to pay on this or one policy paying other one, and how would that work?

**Ward:** Again, as I understand it there is a system for coordinating which of those policies would pay. And if for example your Blue Cross policy would be primary, it would pay and your other policy would pay if there was something that was left unpaid, so you wouldn't be left without coverage, but you might have extra coverage where other people might not. It's to coordinate and make sure that both policies and that type of thing aren't paying for the same procedure. If you have one MRI, it wouldn't pay twice for that. It would be paid for less than one or the other.

**Rep. Ruby:** Is this going to change anything? You mentioned that there is a subsection ten that deals with this area so have we been operating under the proportional payments or have they been operating under the priority?

**Ward:** My understanding is that most of the companies have been under the priority payment system and that the portion is really gone but American Family suggested that some people were getting technical in the home office in Madison and they feel uncomfortable issuing policies that aren't consistent with state laws and we just want to get this cleared up.

**Rep. Keiser:** When you have multiple policies, you still have to pay the deductible even though they use the priority?

**Ward:** I'm not sure about that. I would imagine, but there may be some scenarios where that supplemental policy would pick up part of it that may not have been picked up if you only had one policy.

**There were no further questions from the committee.**

**Michael Fix, ND Insurance Department,** spoke in support of the bill.

**Fix:** As Pat Ward mentioned, I found about two hours ago that Vance was sick and not coming. I am a little bit aware of the issue. We do support the changes that 2318 does and from what Vance had explained to me, this was back in January when we first started talking about this, the way we are currently regulating and holding companies to the coordination of benefits provisions that were adopted and I think it was back in the mid 90's. There is language in there, obsolete language that was obsolete in 1994. American Family had called and talked to Vance about the two different laws and Vance explained to them that we are regulating on the basis that the coordination of benefits law that's currently in affect. As Pat mentioned, American Family wanted to make sure that they weren't crossing with the law so that's where the idea of the legislation came out there. Just to take out the part that has been obsolete since 1994 and so that is what this bill is.

**Rep. Keiser:** How do you determine the formula for priority?

**Fix:** I don't know where I would be comfortable answering.

**Rep. Kasper:** This section applies to health insurance, accident health insurance; it does not apply to cancer insurance policies?

**Fix:** Correct. The theory is that you don't want somebody to be able to get paid twice on the same expense to where you make money by having a treatment.

**Rep. Ruby:** Is this a coordination of benefits between health insurer and the company that is offering no fault?

**Fix:** This would be coordination between two companies that are covering the same thing.

**Rep. Keiser:** Why haven't we ever looked at the law and said if we are going to have liability, and we do have multiples, they have to discount the premium. I am paying one hundred percent premium on two claims, but I don't have one hundred percent coverage.

**Fix:** As a past pricing actuary, I don't know how you would price it.

**Rod St. Aubyn, BCBS**, spoke in support of the bill.

**St. Aubyn:** The whole COB rules are extremely complicated. I couldn't even begin to figure it out. We have people that is all they do is COB. It depends upon, my wife and I have a separate coverage, she has a single coverage and I have family coverage. So then all of the sudden, a claim that she has, and my insurance is secondary and I would pick up the co-pay and deductibles things like that on her part. So in effect, her claims usually are pretty much covered in full. Mine is different. I still have co-pays, deductibles, but there is different rules. Date of birth date between spouses, the earliest date, if you have a whole bunch of different rules that fall into place. I believe the commissioner opted the NAIC model act on the COB about a year ago. They adopt some of the standard rules that are supposed to be applied. Hopefully all of the states will do that. That way it gets into the same situations as other states.

**Pat Ward:** *To Rep. Ruby about the no fault question.* There is another statute that applies specifically to COB between no fault and health policies. This statute is just multiple health policies. Like the example that Rod gave.

**Rep. Thorpe moved a DO PASS. Rep. Nottestad**

**Roll Call VOTE 13 yes. 0 no. 1 absent.**

**Carrier: Rep. Ruby**

**Rep. Zaiser was absent and not voting.**

Date: 3-6-07  
Roll Call Vote #: \_\_\_\_\_

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2318

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep Thorpe Seconded By Rep. Nottestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser	Absent	
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep Ruby

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 6, 2007 3:43 p.m.

**Module No: HR-42-4577**  
**Carrier: Ruby**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2318: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

SB 2318

*Same  
to House*

TESTIMONY IN SUPPORT OF SB 2318

Good morning Chairman Klein and Members of the Senate Industry, Business and Labor Committee:

My name is Constance Hofland and I represent American Family. I am here to testify in support of SB 2318.

SB 2318 deletes the current subsection (2)(i) from 26.1-36-04 on coordination of benefits because it is antiquated and in conflict with newer coordination of benefits provisions in administrative rules and 26.1-36-10.

This provision was part of a National Association of Insurance Commissioners (NAIC) model act adopted in 1950 which was passed into law in North Dakota in 1953. This issue came up because American Family is reluctant to not be in compliance with a statute that is on the books, but recognizes the newer statutes and administrative rules are in conflict with this provision.

The old subsection (2)(i) is a proportional view of coordination of benefits, versus the new coordination of benefits provisions that designate order of payment of multiple policies.

After discussing this issue with the insurance department, it was apparent that subsection (2)(i) does not apply to how benefits are coordinated under modern

2318  
#1

policies. The proposed bill would take care of the issue. Legislative council also checked and there are no other cross references to this subsection in the code.

We urge a Do Pass on SB 2318.



prehospital emergency medical services benefits in the case of an emergency medical condition.

3. The coverage required under this section does not require coverage in excess of policy aggregate limits or internal policy limits dealing specifically with prehospital emergency medical services.
4. This section does not prevent an insurance company, nonprofit health service corporation, or health maintenance organization from imposing deductibles, coinsurance, or other cost sharing in relation to benefits for prehospital emergency medical services.

**26.1-36-09.11. Breast reconstruction surgery.** An insurance company, nonprofit health service corporation, or health maintenance organization may not deliver, issue, execute, or renew any health insurance policy, health service contract, or evidence of coverage on an individual, group, blanket, or franchise basis unless the policy, contract, or evidence of insurance provides the benefit provisions of the federal Women's Health and Cancer Rights Act of 1998 [Pub. L. 105-277; 112 Stat. 2681-337; 42 U.S.C. 300gg-6]. This section does not apply to individual or group supplemental, specified disease, long-term care, or other limited benefit policies.

**26.1-36-10. Health policy and health service contract coordination of benefit provisions.** A group health insurance policy or a group health service contract may contain coordination of benefit provisions for the control of overinsurance. An individual health insurance policy or individual health service contract, except a specific disease, hospital indemnity, or other limited benefit plan, may contain coordination of benefit provisions for the control of overinsurance. These provisions must be in accordance with appropriate guidelines set forth in rules adopted by the commissioner.

**26.1-36-11. Accident and health policy provision denying insured right to employ doctor or enter hospital prohibited.** Any provision in any accident or health insurance policy issued by any insurance company denying the insured, in case of accident or sickness, the right to consult or employ any doctor licensed to practice in this state the insured may choose, or to enter any hospital or sanitarium organized and operating under the laws of this state the insured may select is void. The insurance company shall recognize any proof of claim duly certified by such doctor or hospital or sanitarium notwithstanding any provision contained in the policy.

**26.1-36-12. Provisions prohibited in individual and group accident and health insurance policies, group health plans, and nonprofit health service contracts.**

1. Any provision in any individual or group accident and health insurance policy, employee welfare benefit plan, or nonprofit health service contract issued by any insurance company, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], or nonprofit health service corporation denying or prohibiting the insured, participant, beneficiary, or subscriber from assigning to the department of human services any rights to medical benefits coverage to which the insured, participant, beneficiary, or subscriber is entitled under the policy, plan, or contract is void. An individual or group insurance company or nonprofit health service corporation shall recognize the assignment of medical benefits coverage completed by the insured, participant, beneficiary, or subscriber, notwithstanding any provision contained in the policy or contract to the contrary.
2. Any individual or group provision in any accident and health insurance policy, employee welfare benefit plan, or nonprofit health service corporation contract issued by any insurance company, group health plan, or nonprofit health service corporation which limits or excludes payments of medical benefits coverage to or on behalf of the insured, participant, beneficiary, or subscriber if the insured, participant,

SENATE TESTIMONY IN SUPPORT OF SB 2318

Good morning Chairman Keiser and Members of the House Industry, Business and Labor Committee:

My name is Patrick Ward and I represent American Family Insurance Company. I am here to testify in support of SB 2318.

SB 2318 deletes the current subsection (2)(i) from 26.1-36-04 on coordination of benefits because it is antiquated and in conflict with newer coordination of benefits provisions in administrative rules and 26.1-36-10.

This provision was part of a National Association of Insurance Commissioners (NAIC) model act adopted in 1950 which was passed into law in North Dakota in 1953. This issue came up because American Family is reluctant to not be in compliance with a statute that is on the books, but recognizes the newer statutes and administrative rules are in conflict with this provision.

The old subsection (2)(i) is a proportional view of coordination of benefits under multiple health policies, versus the new coordination of benefits provisions that designate order of payment of multiple policies.

After discussing this issue with the insurance department, it was apparent that subsection (2)(i) does not apply to how benefits are coordinated under modern

policies. The proposed bill would take care of the issue. Legislative council also checked and there are no other cross references to this subsection in the code.

We urge a Do Pass on SB 2318.