



Ohio Revised Code

Section 3923.05 Provisions to conform to prescribed wording.

Effective: April 7, 2009

Legislation: House Bill 493 - 127th General Assembly

Except as provided in section 3923.07 of the Revised Code, no policy of sickness and accident insurance delivered, issued for delivery, or used in this state shall contain provisions respecting the matters set forth in this section unless such provisions are in the words in which the same appear in this section. Any such provisions in any such policy shall be preceded by the appropriate caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the superintendent of insurance may approve.

(A) A provision as follows: Change of occupation. If the insured be injured or contract sickness after having changed the insured's occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes the insured's occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification for occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to the date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

(B) A provision as follows: Misstatement of age. If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.



(C) A provision as follows:

(1) Other insurance in this insurer. If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for _____ in excess of _____ dollars, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to the insured's estate.

The insurer shall insert the type of coverage or coverages in the first blank space in the provision in division (C)(1) of this section and the maximum limit of indemnity or indemnities in the second blank space in the provision in division (C)(1) of this section.

(2) In lieu of the foregoing provision in division (C)(1) of this section, a provision as follows: Other insurance in this insurer. Insurance effective at any time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, the insured's beneficiary or the insured's estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

(D) A provision as follows: Insurance with other insurers. If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the provision in division (D) of this section is included in a policy of sickness and accident insurance which also contains the provision in division (E) of this section, the insurer shall add to



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the caption of the provision in division (D) of this section the following: Expense incurred benefits.

The insurer may at its option include in the provision in division (D) of this section a definition of "other valid coverage" approved as to form by the superintendent. Such definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of the Dominion of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the superintendent. In the absence of such definition in the provision in division (D) of this section, "other valid coverage" as used in such provision shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations.

For the purpose of applying the provision in division (D) of this section with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's liability statute, whether provided by governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice.

In applying the provision in division (D) of this section no third party liability coverage shall be included as "other valid coverage."

(E) A provision as follows: Insurance with other insurers. If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which the insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined.

If the provision in division (E) of this section is included in a policy of sickness and accident insurance which also contains the provision in division (D) of this section, the insurer shall add to



the caption of the provision in division (E) of this section the following: Other benefits.

The insurer may at its option include in the provision in division (E) of this section a definition of "other valid coverage" approved as to form by the superintendent. Such definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of the Dominion of Canada, and to any other coverage the inclusion of which may be approved by the superintendent. In the absence of such definition in the provision in division (E) of this section, "other valid coverage" as used in such provision shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations.

For the purpose of applying the provision in division (E) of this section with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's liability statute, whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice.

In applying the provision in division (E) of this section no third party liability coverage shall be included as "other valid coverage."

(F) A provision as follows: Relation of earnings to insurance. If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro-rata amount of the premiums for the benefits actually paid hereunder; this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall this operate to reduce benefits other than those



payable for loss of time.

The provision in division (F) of this section may be placed only in a policy of sickness and accident insurance which the insured has a right to continue in force subject to its terms by the timely payment of premiums until at least age fifty or in a policy of sickness and accident insurance issued after the insured has attained age forty-four and which the insured has the right to continue in force subject to its terms by the timely payment of premiums for at least five years from its date of issue.

The insurer may at its option include in the provision in division (F) of this section a definition of "valid loss of time coverage" approved as to form by the superintendent. Such definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of the Dominion of Canada or to any other coverage the inclusion of which may be approved by the superintendent or any combination of such coverages. In the absence of such definition in the provision in division (F) of this section "valid loss of time coverage" as used in such provision shall not include any coverage provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's liability statute, whether provided by a governmental agency or otherwise, or benefits provided by union welfare plans or by employer or employee benefit organizations.

(G) A provision as follows: Unpaid premium. Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(H) A provision as follows: Conformity with state statutes. Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(I) A provision as follows: Illegal occupation. The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.