

TITLE 41
INSURANCE

CHAPTER 41
JOINT PUBLIC AGENCY SELF-FUNDED HEALTH CARE PLANS

41-4101. DECLARATION OF PURPOSE. It is the purpose of this chapter to recognize and provide reasonable public supervision of self-funded plans established by public agencies pursuant to a joint powers agreement in accordance with [chapter 23, title 67](#), Idaho Code, for provision of health care service benefits to employees of public agencies in connection with or as an alternative to insurance and other prepayment plans.

[41-4101, added 2006, ch. 415, sec. 1, p. 1271.]

41-4102. DEFINITIONS. As used in this chapter:

(1) "Administrator" means a person, other than a board member, employed by the board to administer a joint public agency self-funded plan.

(2) "Beneficiary" means any individual entitled, under the joint public agency self-funded plan, to payment by the trust fund of any part of all of the cost of any health care service rendered to him.

(3) "Board of trustees" or "board" is the board of trustees of the trust fund.

(4) "Contribution" means the amount paid or payable by the employer or employee into the trust fund.

(5) "Director" means the director of the department of insurance of this state.

(6) "Joint powers agreement" means an agreement entered into between public agencies pursuant to [chapter 23, title 67](#), Idaho Code.

(7) "Joint public agency self-funded plan" or "self-funded plan" or "plan" means any public agency plan established by a joint powers agreement and under which payment for any disability benefits not otherwise provided for under [title 72](#), Idaho Code (worker's compensation and related laws -- industrial commission), medical, surgical, hospital, and other services for prevention, diagnosis, or treatment of any disease, injury, or bodily condition of an employee is, or is to be, regularly provided for or promised from funds created or maintained in whole or in part by contributions or payments thereto by a public agency employer, or by a public agency employer and the employees of the public agency, and not otherwise covered by insurance or contract with a health care service corporation, health maintenance organization, or similar other third party prepayment plan.

(8) "Person" means any individual, corporation, association, firm, syndicate, organization or other entity.

(9) "Public agency" means any city, county or political subdivision of this state, including, but not limited to: counties; school districts; highway districts; port authorities; instrumentalities of counties, county hospitals, cities or any political subdivision created under the laws of the state of Idaho; and the state of Idaho and any agency of the state government. "Public agency" also means any group of more than one (1) of the above public agencies acting together pursuant to a joint powers agreement in accordance with [chapter 23, title 67](#), Idaho Code.

(10) "Surplus" means the excess of the assets of a self-funded plan minus the liabilities of the plan, provided the liabilities of a self-funded plan shall include the claims liability of the plan.

(11) "Trust fund" means a fund established under a joint public agency self-funded plan for receipt of contributions of employers and employees and payment of or with respect to health care service costs of beneficiaries.

[41-4102, added 2006, ch. 415, sec. 1, p. 1272; am. 2018, ch. 61, sec. 1, p. 151.]

41-4103. REGISTRATION REQUIRED -- EXEMPTIONS -- NOT SUBJECT TO INSURANCE CODE. (1) No joint public agency self-funded plan shall operate in this state except while registered with the director as hereinafter provided. Joint public agency self-funded plans already in operation as of July 1, 2006, shall so register within ninety (90) days of the effective date of this act.

(2) No registration shall be required of:

(a) Any plan established and maintained for the purpose of complying with any worker's compensation law or unemployment compensation disability insurance law; or

(b) Any plan that is primarily for the purpose of providing first aid care and treatment, at a dispensary of an employer, for injury or sickness of employees while engaged in their employment.

(3) Plans while so registered shall not be deemed to be engaged in the business of insurance and shall not be subject to provisions of the Idaho insurance code except as expressly provided in this chapter.

(4) The plan shall provide to each employer participant and to each prospective employer participant a written notice stating that the plan is not insurance and does not participate in the state guaranty association.

[41-4103, added 2006, ch. 415, sec. 1, p. 1272.]

41-4104. QUALIFICATIONS FOR REGISTRATION. No joint public agency self-funded plan shall register, and the director shall not register a joint public agency self-funded plan, which is not qualified as provided in this section.

(1) The joint powers agreement must require all contributions to be paid in advance and to be deposited in and disbursed from a trust fund duly created and existing under an adequate written irrevocable trust agreement between the employer or employers and the board.

(2) The plan must:

(a) Have, or provide for, a board of trustees in accordance with this chapter for the administration of the plan;

(b) Require that all members of the joint powers agreement comply with the provisions of the joint powers agreement;

(c) Provide that the administrator or board on behalf of the plan, as the case may be, shall furnish to each employee-beneficiary of the plan a written statement or schedule adequately and clearly stating all benefits currently allowable under the plan, together with all applicable restrictions, limitations, and exclusions, and the procedure for filing a claim for benefits; and

(d) Otherwise be in compliance with the provisions of this chapter.

(3) The allocated trust fund must be actuarially sound; that is, assets and income of the fund must be adequate under reasonable estimates for payment of all benefits promised to beneficiaries by the plan. In determining actuarial soundness the director shall also give due consideration to:

(a) Applicable stop-loss insurance provided or to be provided the plan by an insurer duly authorized to transact disability insurance in this state;

(b) Contracts with health care service corporations or health maintenance organizations authorized to conduct such operations in this state and covering certain of the promised benefits;

(c) Other applicable insurance or guarantys; and

(d) The nature of the participating entities and other plan factors or provisions for prevention or reduction of adverse selection against the plan by those otherwise eligible to become beneficiaries.

(4) The plan shall maintain aggregate stop-loss coverage and specific stop-loss coverage provided by an insurance company authorized to transact insurance in this state in accordance with the annual actuarial opinion of the plan, unless waived pursuant to section [41-4110](#) (3), Idaho Code.

[41-4104, added 2006, ch. 415, sec. 1, p. 1273; am. 2018, ch. 61, sec. 2, p. 152.]

41-4105. APPLICATION FOR REGISTRATION. (1) Application for registration of a joint public agency self-funded plan for public agencies shall be made to the director, on forms furnished and designed by him. The application shall be signed and verified by at least two (2) of the board members.

(2) The application shall be accompanied by:

(a) A copy of the joint powers agreement under which the joint public agency self-funded plan will exist and operate;

(b) A copy of the proposed written statement of benefits referred to in section [41-4104](#) (2), Idaho Code;

(c) A financial statement of the trust fund, if already in existence and operating on July 1, 2006. The statement shall be certified by an independent certified public accountant according to generally accepted accounting principles;

(d) If not already in existence, a written statement of reasonably projected income and disbursements of the trust fund for the twelve (12) month period commencing with date of application and showing also the amount projected as of the end of such period for claims incurred and not paid and incurred and not reported as certified by an actuary having experience in establishing rates for a self-funded plan and the health services being provided, and who is also a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the employment retirement income security act of 1974;

(e) If not already in existence, a copy of a business plan;

(f) A copy of an actuarial study determining adequate rates for the plan. The rates shall not be less than the sum of projected incurred claims for the year plus costs of operation plus a reasonable portion of any prior year deficiency less any excess surplus; and

(g) Such other relevant documentation and information as the director may reasonably require considering that these entities are public agency plans and not private insurance companies.

(3) At the time of filing the application the applicant shall pay to the director a nonrefundable filing fee as provided for by rule.

(4) The director shall transmit and account for all fees received by him hereunder as provided in section [41-406](#), Idaho Code.

[41-4105, added 2006, ch. 415, sec. 1, p. 1274.]

41-4106. GRANT OR DENIAL OF APPLICATION. The director shall act upon an application for registration of a joint public agency self-funded plan with all reasonable promptness. He may make a reasonable investigation of the proposal from the public agency. If the director finds that the application is complete and that the plan meets the qualifications stated in section [41-4104](#), Idaho Code, he shall issue and deliver a certificate of registration in appropriate form to the applicant; otherwise, the director shall refuse to register the plan and shall give written notice of such refusal to the applicant, stating the reasons therefor.

[41-4106, added 2006, ch. 415, sec. 1, p. 1274.]

41-4107. TRUST FUND -- POWERS. In addition to the inherent applicable powers of its public agency members and those of a joint powers entity, the trust fund of a joint public agency self-funded plan shall have power:

- (1) To have and use an appropriate descriptive name;
- (2) To sue and be sued in its own name;
- (3) To contract in its own name. All such contracts in writing shall be signed by the chairman of the board or his or her designee;
- (4) To borrow money and give security therefor; and
- (5) To engage exclusively in transactions authorized or required by this chapter, or reasonably incidental thereto.

[41-4107, added 2006, ch. 415, sec. 1, p. 1274.]

41-4108. TRUST FUND LIABILITY. (1) The trust fund of a joint public agency self-funded plan shall be legally liable for payment of all applicable benefits stated in the statement or schedule of benefits in effect at the time a claim thereunder arises and subject to the terms of the joint powers agreement.

(2) Funds in the trust fund are fiduciary funds, and are not liable for any obligation of any employer participant in the plan, nor subject to garnishment or levy for the obligation of the beneficiary. This subsection (2) shall not be deemed to prohibit levy upon the trust fund by any provider thereof, or its assignee, for health care services rendered a beneficiary if the trust fund has theretofore agreed in writing to pay for the same direct to such provider.

[41-4108, added 2006, ch. 415, sec. 1, p. 1275.]

41-4109. INVESTMENT OF TRUST FUND. (1) The board may invest reserves and other funds available for the purpose in the trust fund of a joint public agency self-funded plan in the following kinds of investments only:

- (a) General obligations of the United States government, or of any state, district, commonwealth or territory of the United States, or of any municipality, county, or other political subdivision or agency thereof.
- (b) Obligations, the payment of principal and interest of which is guaranteed by any such government or agency.
- (c) Corporate bonds and similar obligations meeting the requirements specified for investment of funds of insurers under section [41-711](#), Idaho Code.

(d) Collateral loans, payment of principal and interest of which is adequately secured by securities in which the trust fund could lawfully invest directly.

(e) Deposits, savings accounts, and share accounts in established banks and savings and loan associations located in the United States.

(2) In addition to investments excluded under subsection (1) of this section, the board is expressly prohibited from investing trust fund moneys in:

(a) Any loan to or security of any employer participating in the plan, or to or of any officer, director, subsidiary or affiliate of any such employer.

(b) The security of any person in which a member of the board, administrator, or any consultant of the plan has a direct or indirect material pecuniary interest.

(c) Real estate or loans thereon.

(d) Any personal loan, other than a collateral loan referred to in subsection (1) (d) of this section, but subject to paragraphs (a) and (b) of this subsection (2).

(3) All such investments shall be made and held in the name of the trust fund, and the interest and yield thereon shall inure to the account of the trust fund.

(4) No investment shall be made unless authorized in writing by the board and so shown in the records of the trust fund.

(5) Any person who authorizes any investment of trust fund moneys in violation of this section shall, in addition to other penalty therefor, be liable for all loss suffered by the trust fund on account of the investment.

(6) No investment made in violation of this section shall constitute an "asset" in any determination of the financial condition of the trust fund.

[41-4109, added 2006, ch. 415, sec. 1, p. 1275.]

41-4110. RESERVES. (1) A joint public agency self-funded plan shall establish and maintain in its trust fund the following reserves:

(a) A reserve in an amount as certified by a member of the American academy of actuaries as being necessary for payment of claims against the trust fund for benefits, including both claims reported and not yet paid and claims incurred but not yet reported. Any joint public agency self-funded plan in existence as of July 1, 2006, shall also have three (3) years from the effective date of this act to fund the applicable reserves.

(b) If under the plan periodic contributions of either the employer or employees to the trust fund are payable less frequently than monthly, there shall be a reserve for unearned contributions as computed pro rata on the basis of the unexpired portion of the period for which the contribution has been paid.

(2) In any determination of the financial condition of the trust fund, the claims reserve and reserve for unearned contributions shall constitute liabilities.

(3) Upon request of a plan, the director shall have the authority to annually waive the requirement that the plan maintain aggregate stop-loss coverage if:

(a) The joint public agency self-funded plan established by a joint powers agreement is governed by a board of trustees and is operating as a public agency;

- (b) Enrollment under the plan averages a minimum of one thousand (1,000) covered persons in each of the preceding twelve (12) months;
- (c) The plan establishes and maintains, in its trust fund, reserves as set forth in subsection (1) (a) of this section; and
- (d) The plan establishes and maintains, in its trust fund, surplus of at least the amount certified annually by a member of the American academy of actuaries as sufficient without aggregate stop-loss coverage, but no less than three (3) months of contributions.

[41-4110, added 2006, ch. 415, sec. 1, p. 1276; am. 2018, ch. 61, sec. 3, p. 152.]

41-4111. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within ninety (90) days after the close of a fiscal year of the plan, the board shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall be in the form as prescribed by the director and the financial information therein shall be certified by an independent public accountant by whom such information was prepared. The board shall keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years for review by any beneficiary and shall deliver a copy of a financial summary to each participating employer.

(3) On or before expiration of such ninety (90) day period the board shall cause an original of the annual statement to be filed with the director. The joint public agency self-funded plan shall not be subject to any filing fees provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.

(4) The board shall also file quarterly supplemental financial reports in a form and at the times prescribed by the director.

(5) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in [chapter 1, title 74](#), Idaho Code.

[41-4111, added 2006, ch. 415, sec. 1, p. 1276; am. 2010, ch. 96, sec. 3, p. 185; am. 2015, ch. 141, sec. 114, p. 463.]

41-4112. TAXES -- EXEMPTION. Any plan established under this chapter is not subject to any state tax, including a premium or maintenance tax.

[41-4112, added 2006, ch. 415, sec. 1, p. 1277.]

41-4113. EXAMINATION OF BOOKS, RECORDS AND ACCOUNTS. (1) The books, records, accounts and affairs of a joint public agency self-funded plan shall be subject to examination by the director, by competent examiners duly authorized by him in writing, at such times or intervals as the director deems advisable. The purposes of the examination shall be to determine compliance of the plan with applicable laws, financial condition and actuarial

adequacy of its trust fund, treatment accorded beneficiaries, and as to other factors materially related to the plan's management and operation.

(2) The board shall promptly make the books, records and accounts of the plan and trust fund available in Idaho to the examiner and otherwise facilitate the examination.

(3) The examiner shall conduct the examination expeditiously, make his report of the examination in writing, and deliver a copy thereof to the board and to the director. The board shall have four (4) weeks after receipt of the report within which to recommend to the director such corrections or changes therein as the board may deem appropriate. After making such corrections or changes, if any, as he deems proper, the director shall file the report in his office as a document open to public inspection, and deliver to the board a copy of the report as so corrected or changed.

(4) Since a joint public agency self-funded plan is funded by local tax moneys, the costs of the examination shall not be borne by the plan or trust fund of the plan.

[41-4113, added 2006, ch. 415, sec. 1, p. 1277.]

41-4114. BOARD OF TRUSTEES -- ADMINISTRATORS. (1) The trust shall be governed and managed by a board of trustees. This board shall consist of members elected by the governing boards of the member public agencies. The composition and membership of the board shall be established in the joint powers agreement between the members. The process and procedure for conducting the election and determining the members shall be set forth in the joint powers agreement establishing the plan, except that the election must be conducted, completed and results certified by December 31 of each year in which an election for members is conducted. Boards of joint public agency self-funded plans existing as of July 1, 2006, shall be deemed to be in compliance with the establishment requirements of this chapter but shall conduct future elections in accordance with the requirements of this chapter.

(2) An individual, firm or corporation may be an administrator of a plan.

(3) The board shall cause all individuals handling receipts and disbursements for the trust fund to be covered under a dishonesty insurance policy or surety bond in an amount not less than ten percent (10%) of the annual contributions to the plan or as the director may deem reasonably advisable, issued by an insurer authorized to transact such insurance in this state. This policy shall only be canceled upon giving no less than thirty (30) days' notice to the board and to the director. The cost of the insurance shall be borne by the trust fund. The amount of any policy or bond required under this section shall be not less than twenty-five thousand dollars (\$25,000) or more than five hundred thousand dollars (\$500,000).

[41-4114, added 2006, ch. 415, sec. 1, p. 1277.]

41-4115. PROHIBITED PECUNIARY INTERESTS IN PLAN MANAGEMENT. No board member, administrator or other person having responsibility for the management of a joint public agency self-funded plan or the investment or other handling of plan funds shall:

(1) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument, other than salary or other compensation regularly fixed and allowed for services regularly rendered to the

plan, arising out of any transaction to which the trust fund is or is to be a party;

(2) Receive compensation as a consultant to the plan while also acting as a board member or administrator, or as an employee of either; or

(3) Have any direct or indirect material pecuniary interest in any loan or investment of the trust fund.

[41-4115, added 2006, ch. 415, sec. 1, p. 1278.]

41-4116. POLITICAL CONTRIBUTIONS PROHIBITED. No board shall make or knowingly permit the making, directly or indirectly, of any political contribution by or from any joint public agency self-funded plan trust fund.

[41-4116, added 2006, ch. 415, sec. 1, p. 1278.]

41-4117. RECOVERY OF DEPLETED FUNDS. If after notice and hearing the director finds that any joint public agency self-funded plan trust fund has been depleted by reason of any wrongful or grossly negligent act or omission of a board member or any other person, he shall transmit a copy of his findings to the attorney general of this state, who may bring an action in the name of the people of this state, or intervene in any action brought by or on behalf of an employer or beneficiary, for the recovery of the amount of such depletion, for the benefit of the trust fund.

[41-4117, added 2006, ch. 415, sec. 1, p. 1278.]

41-4118. TERMINATION OF REGISTRATION. (1) The director may terminate the registration of a joint public agency self-funded plan upon written request of the board, or if he finds, after an examination, that the trust fund is insolvent.

(2) The director may terminate the registration of a plan for violation of this chapter, or failure of the board to file the annual statement with the director within the time required under section [41-4111](#), Idaho Code, or if he finds, after an examination of the trust fund or the plan:

(a) That the plan no longer meets the qualifications required by sections [41-4101](#) and [41-4110](#), Idaho Code, and that the deficiency will not or cannot be remedied within a reasonable time;

(b) That as a matter of frequent practice the benefits promised by the plan are not being fairly and promptly paid;

(c) That the cost of administering the plan is excessive in relation to the character and volume of service being rendered in the administration; or

(d) That the trust fund has been subject to fraudulent or dishonest practices on the part of the board, administrator, consultant, any participating employer, or beneficiaries.

(3) The director shall so terminate the registration by his written order given to the board and to each employer last of record a participant in the plan. The order shall state the grounds upon which it is made and its effective date. The order shall be subject to judicial review in the same manner as applies to official orders of the director in general.

[41-4118, added 2006, ch. 415, sec. 1, p. 1278.]

41-4119. LIQUIDATION OF TRUST FUND. (1) Upon termination of registration the trust fund of a joint public agency self-funded plan shall be liquidated.

(2) Liquidation of a solvent joint public agency self-funded plan shall be conducted by its trustee under a plan of liquidation in writing filed with the director, found by the director to be fair and equitable to all persons having a pecuniary interest in the trust fund, and approved by him. Any balance remaining after payment or adequate provision for all claims and charges against the trust fund shall be disposed of in such manner as is provided for in the plan of liquidation. Unless under the plan of liquidation liability for all unpaid claims and obligations of the trust fund has been assumed by other financially responsible person or persons, the existence of surplus funds for such disposition shall not be determined prior to expiration of two (2) years after termination of the registration.

(3) The liquidation of an insolvent joint public agency self-funded plan shall be carried out by the director in accordance with [chapter 33, title 41](#), Idaho Code (supervision, rehabilitation and liquidation), and for this purpose the joint public agency self-funded plan shall be deemed to be an insolvent domestic insurer.

[41-4119, added 2006, ch. 415, sec. 1, p. 1279.]

41-4120. RULES. (1) The director may make reasonable rules necessary for or as an aid to effectuation of any provision of this chapter. No such rule shall extend, modify, or conflict with any provision of this chapter and the reasonable implications thereof nor any of the administrative, statutory or constitutional rights and responsibilities of a public agency.

(2) Such rules, or any amendment thereof, shall be made by the director in accordance with [chapter 52, title 67](#), Idaho Code.

[41-4120, added 2006, ch. 415, sec. 1, p. 1279.]

41-4121. OTHER PROVISIONS APPLICABLE. [Chapter 2, title 41](#), Idaho Code (the director of the department of insurance), [chapter 13, title 41](#), Idaho Code (trade practices and frauds), and sections [41-2141](#)(1) and [41-2216](#)(1), Idaho Code (coordination of benefits, except to the extent the rules pertain to medicare coverage), to the extent applicable and not in conflict with the express provisions of this chapter, shall also apply with respect to joint public agency self-funded plans, and for the purpose such plans shall be deemed to be "insurers."

[41-4121, added 2006, ch. 415, sec. 1, p. 1279.]

41-4122. PENALTIES. (1) Any person who violates or causes or induces violation of any provision of this chapter or any lawful rule of the director issued hereunder, shall be subject to an administrative penalty for each violation of not more than one thousand dollars (\$1,000) for an individual and not more than five thousand dollars (\$5,000) for any entity.

(2) Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact in any application, examination, or statement required under this chapter or by lawful rule of the director hereunder, shall be subject to penalty as provided in subsection (4) of this section.

(3) Any person who makes a false entry in any book, record, statement, or report required by this chapter or lawful rule of the director thereunder to be kept by him for any joint public agency self-funded plan, with intent to injure or defraud the fund or any beneficiary thereunder, or to deceive any person authorized or entitled to examine the affairs of the plan, shall be subject to penalty as provided in subsection (4) of this section.

(4) For each such violation, act or omission referred to in subsections (2) and (3) of this section, unless greater penalty is provided therefor under any other applicable law, the offender shall upon conviction thereof be subject to a fine of not more than fifteen thousand dollars (\$15,000) and to imprisonment for not more than fifteen (15) years, or to both such fine and imprisonment.

[41-4122, added 2006, ch. 415, sec. 1, p. 1279.]

41-4123. COVERAGE FROM MOMENT OF BIRTH -- COMPLICATIONS OF PREGNANCY. (1) Every joint public agency self-funded plan issued in this state or providing coverage to any covered family residing within this state, shall contain a provision granting immediate accident and sickness coverage, from and after the moment of birth, to each newborn child or infant of any covered family, including a newborn child placed with the adoptive covered family within sixty (60) days of the adopted child's date of birth. Coverage under the joint public agency self-funded plan for an adopted newborn child placed with the adoptive covered family more than sixty (60) days after the birth of the adopted child shall be from and after the date the child is so placed. Coverage provided in accordance with this section shall include, but not be limited to, coverage for congenital anomalies. For the purposes of this section, "child" means an individual who has not reached eighteen (18) years of age as of the date of the adoption or placement for adoption. For the purposes of this section, "placed" shall mean physical placement in the care of the adoptive covered family, or in those circumstances in which such physical placement is prevented due to the medical needs of the child requiring placement in a medical facility, it shall mean when the adoptive covered family signs an agreement for adoption of such child and signs an agreement assuming financial responsibility for such child. Prior to legal finalization of adoption, the coverage required under the provisions of this subsection (1) as to a child placed for adoption with a covered family continues in the same manner as it would with respect to a naturally born child of the covered family until the first to occur of the following events:

- (a) The date the child is removed permanently from that placement and the legal obligation terminates; or
- (b) The date the covered family rescinds, in writing, the agreement of adoption or agreement assuming financial responsibility.

No such plan may be issued or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn or adopted children or infants of a covered family covered from and after the moment of birth that is inconsistent with the provisions of this section.

(2) An insurer shall not restrict coverage under a joint public agency self-funded plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time the child would otherwise become eligible for coverage under the plan, if the adoption or

placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(3) No joint public agency self-funded plan which provides maternity benefits for a person covered continuously from conception shall be issued, amended, delivered, or renewed in this state if it contains any exclusion, reduction, or other limitations as to coverage, deductibles, or coinsurance provisions as to involuntary complications of pregnancy, unless such provisions apply generally to all benefits paid under the plan. If a fixed amount is specified in such plan for surgery, the fixed amounts for surgical procedures involving involuntary complications of pregnancy shall be commensurate with other fixed amounts payable for procedures of comparable difficulty and severity. In a case where a fixed amount is payable for maternity benefits, involuntary complications of pregnancy shall be deemed an illness and entitled to benefits otherwise provided by the plan. Where the plan contains a maternity deductible, the maternity deductible shall apply only to expenses resulting from normal delivery and cesarean section delivery; however, expenses for cesarean section delivery in excess of the deductible shall be treated as expenses for any other illness under the plan.

For purposes of this subsection (3), involuntary complications of pregnancy shall include, but not be limited to, puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

All plans subject to this subsection (3) and issued, amended, delivered, or renewed in this state shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

[41-4123, added 2006, ch. 415, sec. 1, p. 1280.]

41-4124. SERVICES PROVIDED BY GOVERNMENTAL ENTITIES. (1) From and after July 1, 2006, no joint public agency self-funded plan shall be issued in Idaho which excludes from coverage services rendered the subscriber while a resident in an Idaho state institution, provided the services to the subscriber would be covered by the contract if rendered to him outside an Idaho state institution.

(2) From and after July 1, 2006, no joint public agency self-funded plan may contain any provision denying or reducing benefits otherwise provided under the policy for the reason that the person insured is receiving health or mental health care or developmental services provided by the department of health and welfare, whether or not the department of health and welfare bases its charges for such services on the recipient's ability to pay. Provided, nothing in this section shall prevent the issuance of a contract which excludes or reduces benefits where the charge level or amount of the charge levied by a governmental entity for such services would vary or be affected in any way by the existence of coverage under a joint public agency self-funded plan.

(3) Any new or renewing joint public agency self-funded plan delivered or issued for delivery in this state shall provide that an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent shall be permitted to remain on the parent's or parents' plan. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' plan.

[41-4124, added 2006, ch. 415, sec. 1, p. 1281; am. 2008, ch. 296, sec. 5, p. 830; am. 2009, ch. 125, sec. 7, p. 398.]

41-4125. MAMMOGRAPHY COVERAGE. (1) From and after July 1, 2006, all joint public agency self-funded plans which provide coverage for the surgical procedure known as a mastectomy which are delivered, issued for delivery, continued or renewed in this state shall provide minimum mammography examination or equivalent examination coverage. Such coverage shall include at least the following benefits:

(a) One (1) baseline mammogram for any woman who is thirty-five (35) through thirty-nine (39) years of age.

(b) A mammogram every two (2) years for any woman who is forty (40) through forty-nine (49) years of age, or more frequently if recommended by the woman's physician.

(c) A mammogram every year for any woman who is fifty (50) years of age or older.

(d) A mammogram for any woman desiring a mammogram for medical cause. Such coverage shall not exceed the cost of the examination.

(2) As used in this section, "mastectomy" means the removal of all or part of the breast for medically necessary reasons as determined by a licensed physician.

(3) Nothing in this section shall apply to specified accident, specified disease, hospital indemnity, medicare supplement, long-term care or other limited benefit health insurance policies.

[41-4125, added 2006, ch. 415, sec. 1, p. 1281.]