§ 22:1006. Health benefit plans; replacement; continuance of benefits: Health and Accident Insurance; Standards and Contract Requirements in General

A. This Section shall apply to any health benefit plan that provides coverage to two or more employees of an employer in this state if any of the following conditions is satisfied:

(1) Any portion of the premium or benefits is paid by or on behalf of the employer.

(2) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the employer for any portion of the premium.

(3) The health benefit plan is treated by the employer or any of the eligible employees or dependents as part of a plan or program for the purposes of Sections 162, 125, or 106 of the United States Internal Revenue Code.

B. This Section shall not apply to a health benefit plan which was issued in good faith with no knowledge or intent that the plan will, at the time of issuance or thereafter, satisfy one or more of the conditions set forth in Subsection A of this Section, and the insurer has certified to the Department of Insurance that the policy form:

(1) Is not designed to be an employer-provided insurance.

(2) Is not intended to be an employer-provided insurance.

(3) Will not be advertised or marketed as employer-provided insurance.

(4) Will not be issued if the insurer knows that the policy will meet one or more of the conditions set forth in Subsection A of this Section.

C. "Health benefit plan" means any hospital or medical policy or group certificate delivered or issued for delivery in this state by an insurer; a nonprofit hospital or medical service organization; a domestic nonprofit mutual association which is engaged exclusively in the provision of hospital service, medical, or surgical benefits; a health maintenance organization; or a self-insured plan that provides, on an expense-incurred basis, hospital, surgical, or major medical expense insurance, or any combination of these except specified disease, hospital indemnity or other limited, supplemental benefit insurance policies.

D. Under the provisions of this Section, the replacement of insurance shall also refer to any insurance issued by a second insurer within sixty days of the termination of coverage by the prior insurer.

E. Whenever a contract of one carrier replaces a health benefit plan of similar benefits of another carrier:

(1) The prior carrier shall remain liable only to the extent of its accrued liabilities. The position of the prior carrier shall be the same whether the group policyholder or other entity secures replacement coverage from a new carrier, or a self-insurer, or foregoes the provision of coverage.

(2) Each person who was validly covered or eligible to be covered under the prior health plan, shall be offered coverage by the succeeding carrier's plan of benefits. No previously covered person shall be considered ineligible for coverage.

(3) The succeeding carrier, in determining whether a preexisting condition provision applies to an eligible employee or dependent, shall credit the time the person was covered under the prior plan if the previous
coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. The succeeding carrier shall credit coverage in accordance with R.S. 22:984, 1061 through 1079, and 2247, and reasonable regulations issued by the commissioner of insurance under the Administrative Procedure Act for the enforcement thereof.

(4) The succeeding carrier, in applying any deductibles or waiting periods in its plan, shall give credit for satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior carrier's plan during the ninety days preceding the effective date of the succeeding carrier's plan, but only to the extent these expenses are recognized under the terms of the succeeding carrier's plan and are subject to similar deductible provisions.

(5) Whenever a determination of the prior carrier's benefits is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall provide a statement of the benefits available, pertinent information, sufficient to permit verification of the benefit determination, or the determination itself by the succeeding carrier. For purposes of this Paragraph, benefits of the prior plan shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior plan rather than those of the succeeding plan. The benefit determination will be made as if coverage was not replaced by the succeeding carrier.