



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

NOTICE

TO: All Insurers and Fraternal Benefit Societies Licensed to Sell Life, Disability Income or Long-Term Care Insurance in California

FROM: Insurance Commissioner Ricardo Lara

DATE: June 20, 2019

SUBJECT: Insurer Underwriting Practices for Truvada/PrEP Users

The California Department of Insurance (CDI) has received complaints that insurers are denying insurance coverage to individuals taking Truvada. This medication is used to treat the human immunodeficiency virus (HIV) and reduce the risk of HIV infection. When taken by HIV-negative individuals to protect them from contracting HIV, Truvada is known as Pre-Exposure Prophylaxis (PrEP). The Centers for Disease Control and Prevention has determined that daily use of PrEP is highly effective in reducing the risk of contracting HIV. An investigation by CDI found that certain insurers are denying coverage, or offering Life, Disability Income or Long-Term Care Insurance coverage under different conditions, to Truvada/PrEP users. This Notice advises all insurers and fraternal benefit societies licensed to sell Life, Disability Income or Long-Term Care products in California of their obligation to comply with California law when underwriting Truvada/PrEP users.

CDI surveyed the underwriting guidelines and practices of insurers with significant market shares for Life, Disability Income or Long-Term Care Insurance in California. CDI's investigation found a variety of insurer underwriting practices that appear to discriminate unfairly against HIV-negative individuals taking Truvada/PrEP for preventative purposes. These practices include denying or limiting coverage, restricting products available through accelerated underwriting, placing conditions on coverage, or charging higher rates. A number of insurers have reported that they have since discontinued these practices.

With regard to Life Insurance, California law prohibits insurers and fraternal benefit societies from unfairly discriminating between individuals in the same class and with equal expectation of life in the rates charged, benefits payable, or any other terms or conditions. California Insurance Code (Ins. Code) §§ 790.01 and 790.03(f)(1).

With regard to Life and Disability Insurance (Disability Insurance includes Disability Income and Long-Term Care coverage), California law also prohibits insurers from refusing to insure, limiting coverage, or charging different rates because of an impairment unless there is an actuarial basis. Ins. Code §§ 10144 and 106(b)(8).

Accordingly, underwriting practices that unfairly discriminate between individuals with equal expectation of life and/or which lack an actuarial basis violate California law.

In addition, California law prohibits any person or entity engaged in the business of insurance from denying coverage, restricting benefits payable, or modifying the terms or conditions of coverage based on the sexual orientation of the insured or prospective insured. Title 10, California Code of Regulations § 2560.3.

CDI requests insurers and fraternal benefit societies to review their underwriting guidelines and practices with regard to Truvada/PrEP users, to ensure that they comply with California law, including the consumer protection provisions noted above. CDI will continue to review insurers' and fraternal benefit societies' underwriting guidelines and practices with regard to Truvada/PrEP users for compliance with California law through its market conduct examination authority.

For questions regarding this Notice, please contact:

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