

**SUBCHAPTER S. MINIMUM STANDARDS AND BENEFITS AND READABILITY
FOR INDIVIDUAL ACCIDENT AND HEALTH INSURANCE POLICIES
28 TAC §3.3053**

**SUBCHAPTER V. GROUP COORDINATION OF BENEFITS
28 TAC §§3.3501 – 3.3511**

1. INTRODUCTION. The Texas Department of Insurance adopts the repeal of 28 TAC §3.3053, concerning non-duplication of benefits provisions in individual accident and health insurance policies, and Subchapter V, 28 TAC §§3.3501 – 3.3511, concerning group coordination of benefits. The repeal is adopted without changes to the proposal published in the November 8, 2013, issue of the *Texas Register* (38 TexReg 7834).

2. REASONED JUSTIFICATION. The repeal of §3.3053 and Subchapter V are necessary because the department is adopting a new Subchapter V, 28 TAC §§3.3501 – 3.3510 (relating to Coordination of Benefits), which contains substantial revisions and more specific guidelines relating to coordination of benefits (COB). The department adopted §3.3053 to be effective in 1977 and amended it to be effective in 1983 and 1984. Repeal of §3.3053, which addresses non-duplication of individual accident and health insurance policies with other policies, is necessary because it is outdated and does not address current industry practices and procedures. Instead, the new Subchapter V will address non-duplication in the context of coordination of benefits in both individual and group products. Repeal of Subchapter V is necessary because the department adopted the current coordination of benefits subchapter in 1994, but it is no

longer current with existing practices in the industry and must be substantially revised.

The adoption of new Subchapter V, 28 TAC §§3.3501 – 3.3510, is also published in this issue of the *Texas Register*.

3. HOW THE SECTIONS WILL FUNCTION. The adoption of the repeal will result in the elimination of outdated regulations. Adopted new Subchapter V, 28 TAC §§3.3501 – 3.3510 provides more specific guidelines relating to coordination of benefits.

4. SUMMARY OF COMMENTS. The department did not receive any comments on the proposed repeal.

5. STATUTORY AUTHORITY. The repeals of §3.3053 and §§3.3501 – 3.3511 are adopted under Insurance Code §§1201.006, 1201.101, 1251.008, 1701.055(b), 1701.060, and 36.001. Section 1201.006 provides that the commissioner may adopt reasonable rules as necessary to implement the purposes and provisions of Chapter 1201. Section 1201.101(a) provides that the commissioner must adopt reasonable rules establishing specific standards for the content of an individual accident and health insurance policy and the manner of sale of an individual accident and health insurance policy, including disclosures required to be made in connection with the sale. Section 1201.101(b) provides that rules adopted under Chapter 1201 must establish standards for policy readability and full and fair policy disclosures. Section 1201.101(c)(10)

provides that standards established under Chapter 1201 may include standards that address reductions.

Section 1251.008 provides that the commissioner may adopt rules necessary to administer Chapter 1251.

Section 1701.055(b) provides that a form filed under Chapter 1701 that contains a COB provision may not be approved for use in this state unless the form provides for the order of benefits determination for insured dependent children. It further provides that an order of benefits determination provision may not be approved if the provision violates this code, a rule of the commissioner, or any other law; or contains a provision, title, or heading that is unjust, encourages misrepresentation, or is deceptive.

Section 1701.060(a) provides that the commissioner may adopt reasonable rules necessary to implement the purposes of Chapter 1701, including, after notice and hearing, rules that establish procedures and criteria under which each type of form submitted to the department under this chapter will be reviewed and approved by the commissioner or exempted under §1701.005(b); and in which particular types of forms designated by the commissioner may be given a summary review and approval if considered appropriate by the commissioner to expedite review and approval of those forms. Section 1701.060(b) provides that a rule adopted under this chapter may not be repealed or amended until after the anniversary of the date on which the rule was adopted unless the commissioner determines that repeal or amendment is in the significant and material interests of the citizens of this state or is necessary due to legislative enactment.

Section 36.001 provides that the commissioner of insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. TEXT.**SUBCHAPTER S. MINIMUM STANDARDS AND BENEFITS AND READABILITY FOR INDIVIDUAL ACCIDENT AND HEALTH INSURANCE POLICIES****§3.3053. Non-duplication of Benefits Provision.****SUBCHAPTER V. GROUP COORDINATION OF BENEFITS****§3.3501. Purpose and Applicability.****§3.3502. Identification of Form.****§3.3503. Definitions.****§3.3504. Allowable Expenses.****§3.3505. Claim Determination Period.****§3.3506. Use of the Terms “Plan,” “Primary Plan,” “Secondary Plan,” and “This Plan” in Policies, Certificates, and Contracts.****§3.3507. Prototype COB Contract Provisions and Prohibited Provisions.****§3.3508. Rules for Coordination of Benefits and Order of Benefits.****§3.3509. Procedure To Be Followed by Secondary Plan.****§3.3510. Miscellaneous Provisions.****§3.3511. Effective Date; Compliance by Existing Contracts.**

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TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 3. Life, Accident, and Health Insurance and Annuities

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7. CERTIFICATION. This agency certifies that legal counsel has reviewed the adopted repeal and found it to be a valid exercise of the agency’s legal authority.

Issued at Austin, Texas, on March 3, 2014.



Sara Waitt
General Counsel
Texas Department of Insurance

The commissioner adopts the repeal of §3.3053 and §§3.3501 – 3.3511.



Julia Rathgeber
Commissioner of Insurance

COMMISSIONER’S ORDER NO. **3045**