VERMONT DEPARTMENT OF BANKING AND INSURANCE

REGULATION 89-1

MATERNITY REGULATION

Section 1. PURPOSE

This regulation is promulgated to eliminate unfair discrimination in health insurance policies and contracts covering Vermont residents.

Currently, men are able to purchase health insurance policies which provide coverage for virtually all types of medical expenses. Women cannot obtain this type of comprehensive health insurance at comparable prices. Benefits for medical expenses attributable to pregnancy, including related conditions, are typically excluded from health insurance policies and contracts. When such coverage is available, it can only be obtained at rates significantly higher than the rates charged for policies sold to men.

The Vermont Legislature has prohibited unfair discrimination based on sex in the issuance of insurance policies and contracts. Inclusion of coverage for maternity related medical expenses in health insurance policies eliminates such unfair discrimination.

Section 2. AUTHORITY

This regulation is issued pursuant to the authority of the Commissioner of Banking and Insurance to promulgate regulations. 8 V.S.A. Section 75. The regulation is based on the legislative prohibition against unfair discrimination based on sex. See 8 V.S.A. Sections 4062 and 4724(7)(b).

Section 3. APPLICABILITY

(a) This regulation applies to all health insurers, non-profit hospital and medical service corporations and health maintenance organizations transacting the business of insurance in Vermont. All health insurance policies and contracts sold in Vermont are subject to this regulation, including but not limited to policies and contracts for payment of medical expenses incurred and for indemnification of insureds. This regulation does not limit the scope of insurance coverage set forth in Regulation 80-1.

(b) The regulation does not apply to policies or contracts issued on a specified disease or accident basis. In addition, this regulation does not apply to disability income policies.

(c) The regulation shall apply to all health insurance policies and contracts issued or renewed on or after October 1, 1989. If the policy has no renewal date, this

regulation will apply on the first anniversary of the policy effective date following the date on which this regulation takes effect.

Section 4. DEFINITION

"Complication of Pregnancy" shall include but not be limited to:

(1) conditions, requiring hospital confinement (when the pregnancy is not terminated), whose diagnosis are distinct from pregnancy but are adversely affected by pregnancy or are caused by pregnancy, such as acute nephritis, nephroses, cardiac decompensation, missed abortion and similar medical and surgical conditions of comparable severity, but shall not include false labor, occasional spotting, physician prescribed rest during the period of pregnancy, morning sickness, hyperemesis gravidarum, pre-eclampsia and similar conditions associated with the management of a difficult pregnancy not constituting a nosologically distinct complication of pregnancy; and

(2) non-elective cesarean section, ectopic pregnancy which is terminated and spontaneous termination of pregnancy, which occurs during a period of gestation in which a viable birth is not possible.

Section 5. REQUIREMENTS

(a) All health insurance policies and contracts, unless expressly excluded by this regulation, shall provide maternity coverage. Maternity coverage means the payment of benefits to insureds for medical expenses resulting from pregnancy, childbirth, prenatal care, and related conditions and complications. This coverage shall be subject to the same deductibles, durational limits and co-insurance factors as other conditions, illnesses or accidents covered by the policy or contract.

(b) No health insurance policy or contract shall limit the terms, conditions or benefits for maternity coverage except to the extent that such terms, conditions, or benefits for other conditions or illnesses are so limited under the policy or contract.

(c) maternity coverage may be limited or excluded as a pre-existing condition provision only to the extent that all other illnesses and conditions are so limited or excluded. In the event of a change of coverage or insurance carriers, the pre-existing limitation, exclusion or waiting period, if any, shall be applied equally to all conditions. However, the six month maximum waiting period for certain conditions established by Regulation 80-1 does not apply in determining whether or not a waiting period for maternity coverage is discriminatory. This provision does not impose a requirement that a new policy or contract must have a waiting period or exclusion.

(d) Insurers, non-profit hospital and medical service corporations and health maintenance organizations shall refile their policies and contracts to provide the

required coverage within thirty days after the date on which this regulation is adopted. Policies or contracts which are exempt or which already include coverages provided for in this regulation need not be refiled.

Section 6. SEVERABILITY

Should a court hold any provision of this regulation invalid or inapplicable to any person, the remainder of the regulation or the application of it to other persons shall not be affected.