

191—38.14 (509,514) Use of model COB contract provision.

38.14(1) Appendix A of this division contains a model COB provision for use in contracts. The use of this model COB provision is subject to the provisions of subrules 38.14(2) through 38.14(4) and to rule 38.15(509,514).

38.14(2) Appendix B of this division is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. Appendix B is not intended to replace or change the provisions that are set forth in the contract. The purpose of Appendix B is to explain the process by which two or more plans will pay for or provide benefits.

38.14(3) The COB provision contained in the appendices to this division do not have to use the specific words and format shown in the appendices. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted.

38.14(4) A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

- a.* Another plan exists and the covered person did not enroll in that plan;
- b.* A person is or could have been covered under another plan, except with respect to Part B of Medicare; or
- c.* A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

38.14(5) No plan may contain a provision that states that its benefits are “always excess” or “always secondary” except in accordance with this division.

38.14(6) Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans. Then the secondary plan shall use the provisions of rule 38.16(509,514) to determine the amount it should pay for the benefit.

38.14(7) No plan may use a COB provision or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of “plan” under rule 38.13(509,514).