

These appendices are supplemental to a Commonwealth Fund issue brief, Dania Palanker, Maanasa Kona, and Emily Curran, *States Step Up to Protect Insurance Markets and Consumers from Short-Term Health Plans* (Commonwealth Fund, May 2019), available on the Fund’s website at: <https://www.commonwealthfund.org/publications/issue-briefs/2019/may/states-step-up-protect-markets-consumers-short-term-plans>.

## APPENDIX A. SNAPSHOT OF REGULATION OF SHORT-TERM PLANS IN THE 50 STATES AND THE DISTRICT OF COLUMBIA

State regulation:	Is initial contract duration limit shorter than federal limit?	Is purchase of multiple or consecutive plans prohibited?	Are there rating restrictions?	Are all preexisting condition exclusions banned?	Are rescissions prohibited?	Are essential health benefits required?	Is there a minimum medical loss ratio requirement?	Do consumers have access to external appeals?
<b>Alabama</b>	No	No	No	No	No	No	No	No
<b>Alaska</b>	No	No	No	No	No	No	No	Yes
<b>Arizona</b>	No	No	No	No	No	No	No	Yes
<b>Arkansas</b>	No	No	No	No	No	No	50%	No
<b>California</b>	Short-term plans are not permitted							
<b>Colorado</b>	6 months	Cannot be enrolled more than 12 months in an 18-month period	Same as ACA	No	Yes	Yes <sup>a</sup>	80% <sup>a</sup>	Yes
<b>Connecticut</b>	6 months	No	No	No	No	Yes	No	Yes
<b>Delaware</b>	3 months	Cannot be covered by the same insurer more than three months in a 12-month period	No	No	No	No	60%	No
<b>District of Columbia</b>	3 months	Cannot be enrolled in more than one policy within a 9-month period	No	No	No	No	No	Yes
<b>Florida</b>	No	No	No	No	No	No	No	No
<b>Georgia</b>	No	No	No	No	No	No	No	No
<b>Hawaii</b>	91 days	No <sup>b</sup>	No	No	No	No	No	Yes
<b>Idaho</b>	No	Cannot be enrolled with the same insurer more than 12 months in a 14-month period	No	No	No	No	No	Yes

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<b>Illinois</b>	181 days	Cannot be covered by same insurer more than 181 days in a 240-day period	No	No	Yes	No	No	Yes
<b>Indiana</b>	6 months	No	No	No	No	No	No	No
<b>Iowa</b>	No	No	No	No	No	No	55%–60%	Yes
<b>Kansas</b>	No	No	No	No	No	No	No	Yes
<b>Kentucky</b>	No	No	No	No	No	No	No	Yes
<b>Louisiana</b>	No	No	No	No	No	No	No	No
<b>Maine</b>	No	Cannot be covered more than 24 months	No	No	Yes	No	50%	No
<b>Maryland</b>	3 months	No	No	No	No	No	No	Yes
<b>Massachusetts</b>	Underwritten short-term plans are not permitted							
<b>Michigan</b>	185 days	Cannot be covered by same insurer more than 185 days in a 365-day period	No	No	No	No	No	Yes
<b>Minnesota</b>	185 days	Cannot be covered by same insurer more than 365 days in a 555-day period	Gender rating prohibited	No	No	No	60% <sup>c</sup>	Yes
<b>Mississippi</b>	No	No	No	No	No	No	No	Yes
<b>Missouri</b>	No	No	No	No	No	No	No	Yes, if plan has network
<b>Montana</b>	No	No	Gender rating prohibited	No	No	No	No	Yes
<b>Nebraska</b>	No	No	No	No	No	No	No	Yes
<b>Nevada</b>	185 days	Cannot be covered by same insurer more than 185 days in a 365-day period	No	No	No	No	No	Yes

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<b>New Hampshire</b>	6 months	Cannot be covered more than 540 days in a 24-month period	No	No	No	No	No	Yes
<b>New Jersey</b>	Underwritten short-term plans are not permitted							
<b>New Mexico</b>	3 months	Cannot be covered by same insurer more than 3 months in a 12-month period	No	No	No	No	Rules to be promulgated	No
<b>New York</b>	Short-term plans are not permitted							
<b>North Carolina</b>	No	No	No	No	No	No	No	Yes
<b>North Dakota</b>	6 months	No	No	No	No	No	55%	No
<b>Ohio</b>	No	No	No	No	No	No	No	Yes
<b>Oklahoma</b>	6 months	No	No	No	No	No	No	Yes
<b>Oregon</b>	3 months	Cannot be covered by same insurer more than 3 months in a 5-month period	No	No	No	No	No	No
<b>Pennsylvania</b>	No	No	No	No	No	No	No	No
<b>Rhode Island</b>	No	No	No	Yes	Yes	No	80%	Yes
<b>South Carolina</b>	11 months	No	No	No	No	No	50%-60%	Yes
<b>South Dakota</b>	6 months	No	No	No	No	No	No	No
<b>Tennessee</b>	No	No	No	No	No	No	55%–60%	Yes
<b>Texas</b>	No	No	No	No	No	No	No	Yes
<b>Utah</b>	No	No	No	No	No	No	55%–60%	Yes
<b>Vermont</b>	3 months	Cannot be covered more than 3 months in a 12-month period	No	No	No	No	No	Yes
<b>Virginia</b>	6 months	No	No	No	No	No	No	Yes
<b>Washington</b>	3 months	Cannot be covered more than 3 months in a 12-month period	No	No	Yes	No	No	Yes

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West Virginia	No	No	No	No	No	No	No	Yes
Wisconsin	No	Cannot be covered by same insurer more than 18 months	No	No	No	No	No	Yes
Wyoming	6 months <sup>d</sup>	No		No	No	No	No	Yes

Data: Authors' analysis of state laws governing short-term health plans as of April 30, 2019.

Notes: A state is identified as having a:

**Contract duration limit** if the state limits initial contract duration of short-term plans to less than the federal limit, which is less than 12 months, in one of the following ways: 1) the state has explicitly stated that it will enforce a duration limit that is shorter than less than 12 months or less than 365 days through statute, regulation, or subregulatory guidance; or 2) if a short-term plan lasting longer than the specified duration would become subject to one or more of the following state consumer protections: guaranteed issue, guaranteed renewability, or required coverage of essential health benefits.

**Purchase of multiple or consecutive plans are prohibited** in short-term coverage if the state limits stacking of short-term plans by prohibiting the issuance or purchase of multiple short-term plans within a time period either by 1) expressly limiting the total number of days or months an individual may be enrolled in a short-term plan within a set time period (e.g., 185 days in a 365-day period) by one or multiple insurers; or 2) by both prohibiting renewal of short-term plans and expressly defining renewal to include the purchase of a new short-term plan by either the same or any insurer (for example, defining renewal to include purchase of a new short-term plan within 60 days of being enrolled).

**Rating restrictions** if the state imposes restrictions on factors insurers can use in determining an individual's premium rate, such as age, gender, zip code, or preexisting conditions.

**Preexisting condition ban** only if the state broadly prohibits a short-term plan from excluding any preexisting conditions. Some states limit how long an insurer may look back to determine if a condition is preexisting or not allow preexisting conditions on conditions for which an enrollee recently received care, which are not reflected here.

**Prohibition on rescissions** if the state prohibits insurers from retroactively cancelling short-term coverage or only allows retroactive cancellation of short-term coverage in cases of fraud, misrepresentation of material fact, or failure to pay premiums.

**Requirement to cover the essential health benefits** if the state requires that short-term plans cover at least the 10 categories of benefits as defined by the ACA.

**Medical loss ratio requirement** if the state, through statute, regulation, or written guidance, 1) requires short-term plans to meet a specified minimum percentage of premium dollars on customers' medical claims and quality improvement activities, or 2) requires short-term plans to base their premium rates on an actuarial projection that they spend a specified minimum percentage of all premium dollars on the customers' medical claims and quality improvement activities. This does not include states that consider medical loss ratio in determining if rates are reasonable unless specific ratios are set in statute, regulation, or written guidance.

**Access to external appeals** if the state guarantees short-term plan enrollees with the right to a review of an adverse decision by the insurer to an independent third party not related to the plan.

a. The essential health benefits and 80% medical loss ratio requirements in Colorado became effective April 1, 2019.

b. However, insurers in Hawaii also cannot issue, renew, or reenroll an individual in a short-term policy if the individual was eligible to purchase health insurance through the federal exchange during an open enrollment or a special enrollment period in the previous year, limiting maximum enrollment to less than 12 months for many individuals.

c. It is the interpretation of the Minnesota Department of Commerce that Minnesota statute 62A.02 requires short-term plans have a projected minimum loss ratio of 60%.

d. The Wyoming Department of Insurance interprets Wyoming statute § 26-18-127 as a guaranteed renewability requirement, which applies to short-term plans longer than 6 months.

## APPENDIX B. OVERVIEW OF MAJOR PROVISIONS OF NEW LAWS OR REGULATIONS REGARDING SHORT-TERM PLANS IN 2018

State	Major pieces of new law or regulation	
<b>California</b>		
SB 910	Ban	Bans sale of short-term health plans
Codified Chapter 687, Statutes of 2018		
		Clarifies that all benefit requirements applying to individual market apply to short-term plans, except for some benefits specifically excluded from short-term policies
<b>Colorado</b>	Benefit requirements	
4-2-41		Essential health benefit categories apply to short-term plans (effective April 1, 2019)
4-2-59 <sup>a</sup>	Rating limit	Clarifies age rating limited to 3:1
	Medical loss ratio	Clarifies medical loss ratio of 80 percent required
4-2-60	Preexisting conditions protections	Coverage cannot be denied to an applicant based on a preexisting condition
	Filing requirement	Requires all short-term plans file forms with Division of Insurance
	Duration limit	Limits contract duration to three months or less
<b>Delaware</b>	Limit purchase of multiple policies	Cannot be covered by more than one short-term policy by same insurer within a year
22 DE Reg. 607	Medical loss ratio	Actuarial projections of 60 percent medical loss ratio required
to be codified at 18 DE Admin. Code § 1320	Consumer disclosure	Requires prominent display of federal disclosure and provision of an outline of coverage to applicants
	Filing requirements	Plans must be approved by insurance commissioner
	Duration limit	Limits contract duration to three months or less
<b>District of Columbia</b>	Limit purchase of multiple policies	Cannot be covered by more than one short-term policy by same insurer that previously covered the individual in preceding 9 months
B22-1001	Consumer disclosure	Requires disclosure of D.C.'s individual mandate requirement and other disclosures insurance commissioner requires through rulemaking
Act Number A22-0595 <sup>b</sup>	Preexisting condition protections	Cannot exclude coverage as a preexisting condition or deny coverage to an applicant for a preexisting condition if applicant sought treatment for the condition in prior 12 months or is in active course of treatment
<b>Hawaii</b>	Duration limit	Limits contract duration to less than 91 days
HB 1520	Enrollment limit	Cannot enroll, reenroll, or renew if eligible for a marketplace plan in prior year through open enrollment or a special enrollment period
Act 192		
	Duration limit	Limits contract duration to less than 181 days
<b>Illinois</b>	Limit purchase of multiple policies	Cannot be covered by same insurer within 60 days of coverage
SB 1737	Rescissions	No rescissions except for fraud
Public Act 100-1118	Consumer disclosure	Must be read out loud by broker or agent
	Filing requirement	Plan must be filed with and approved by insurance department

State	Major pieces of new law or regulation	
<b>Maryland</b>	Duration limit	Limits contract duration to 3 months or less
	HB 1782 Chapter 37	Consumer disclosure Codifies federal disclosure
<b>New Mexico</b>	Duration limit	Limits contract duration to 3 months or less
	13.10.29 NMAC	Limit purchase of multiple policies Cannot be covered more than 3 months in a 12-month period
<b>Vermont</b>	Duration limit	Limits contract duration to 3 months or less
	Limit purchase of multiple policies	Cannot be covered more than 3 months in a 12-month period
	H 892	Consumer disclosure To be determined by insurance commissioner Insurer must have certificate of authority form insurance commissioner
	Act 131	Filing requirements Insurance commissioner to adopt rules including filing of rates, form, and marketing materials
	Duration limit	Limits contract duration to 3 months or less
	Limit purchase of multiple policies	Cannot be covered more than 3 months in a 12-month period
	Enrollment limit	Cannot purchase a plan for the next calendar year during the open enrollment period
	Rescissions	No rescissions except for fraud and certain instances of intentional nondisclosure of enrollment in a short-term plan in the 12 months prior to the application and limitations on cancellation Must disclose benefit information using template established in rule
	<b>Washington</b>	Consumer disclosure Requires consumer acknowledgment Must cover hospital, surgical, and medical expenses
WAC 284-43-8000 to -8030	Benefit requirements	Maximum benefit no less than \$1 million Copayment and coinsurance not to exceed 50% of covered services At least one plan offered must have deductible of \$2,000 or less
	Preexisting condition protections	Limits preexisting condition exclusions to conditions for which medical advice, diagnosis, care, or treatment was received or recommended no more than 24 months prior to application
	Filing requirements	Plan forms and rates must be approved by insurance commissioner prior to use/sale

Data: Authors' analysis of state laws governing short-term health plans.

a. Colorado's regulation 4-2-59 was proposed in 2018 and finalized in January 2019 with an April 1, 2019, effective date.

b. The Bill and Act numbers are the final legislation that was signed in 2019, but identical to emergency and temporary legislation passed into law in 2018.