

Disability Arising out of Childbirth § 38.2-3407.11:4 A

The Bureau has received questions regarding Senate Bill 567 which was passed in Virginia's 2020 legislation session and is effective July 1, 2021. This bill added § 38.2-3407.11:4 A which provides that each insurer proposing to issue individual or group accident and sickness insurance policies providing short-term disability income protection coverage whose policies provide coverage for short-term disability arising out of childbirth, shall provide coverage for a payable benefit of at least 12 weeks immediately following childbirth for such a disability.

The following is Bureau guidance based on questions received. Any questions should be directed to Elsie Andy at elsie.andy@scc.virginia.gov.

1. This section applies only to new policies issued on or after July 1, 2021.
2. This section only applies to policies providing *short-term* disability income coverage.
3. Carriers issuing new short-term disability policies covering childbirth may *not* use an elimination period to reduce the required payable benefit of 12 weeks *immediately* following childbirth.
4. A pre-existing conditions limitation period is not prohibited under Section 38.2-3407.11.4 of the Code in these policies.
5. The statute clearly imposes a minimum benefit period of 12 weeks of payable benefits immediately following childbirth, for short-term disability arising out of childbirth in any new short-term disability income policy covering childbirth. If the policy imposes a maximum benefit period *per policy period*, an insured may exhaust benefits and not be eligible for the full 12 weeks of payable benefits after childbirth. However, if the maximum benefit period is *per disability*, then such policy must provide 12 weeks of payable benefits immediately following childbirth.
6. Disability benefits are permitted for a disability if the insured qualifies, which may include any objective medical evidence and documentation required by the policy.
7. Any filings related to Section 38.2-3407.11.4 will be efficiently reviewed.