CHAPTER 92
MATERNITY STAY ACT

NOTE: Chapter 92 was added by P.L. 23-140:1.

§ 92100. Legislative Findings.

Between 1970 and 1992, according to the Centers for Disease Control, the median length of hospital stay for expectant mothers declined from 3.9 to 2.1 days for vaginal delivery and from 7.8 to 4 days for cesarean. The post-1970 decrease in length of stay was a response to changing attitudes including viewing childbirth as a normal, healthy process; finding women to have not been rendered invalids by the delivery; discovering that healthy mothers and babies were prevented against being exposed to infections; promoting bonding between mother and baby; and the desire for cost containment. For insurers and health plans desiring to provide cost-effective services, maternity stays offer an opportunity to reduce expenditures while recognizing new concepts of practice, which call for a continuum of postpartum services directed to mothers' and infants' medical needs.

The American Academy of Gynecology (ACOG) and the American Academy of Pediatrics (AAP) jointly concede that the optimal length of stay in a hospital for healthy mothers and babies should be forty-eight (48) hours of inpatient care after a vaginal delivery and ninety-six (96) hours after a cesarean section. Those on both sides of the postpartum care debate agree that new mothers need rest and recuperation, support with breast-feeding initiation, education about infant care and parenting, and attention to the possibility of immediate anxiety or future postpartum depression,

infection or bleeding. In addition, infants require identification of congenital anomalies, screening for phenyl-ketonuria (PKU), congenital hypothyroidism and other time-sensitive and potentially devastating newborn conditions, arrangement for post-discharge screening or re-screening if infants are discharged within twenty-four (24) hours, attention to feeding and nutrition problems, monitoring of possibly serious neonatal jaundice, and linkage to primary services and immunizations.

Outpatient follow-up can be difficult and expensive. Statistics indicate about fourteen percent (14%) of women and eleven percent (11%) of newborns experience postpartum complications, breast feeding problems, jaundice, dehydration, fever and poor feeding problems within the first twenty-four (24) hours. Early intervention could prevent complications, and reduce infant and maternal mortality and morbidity.

§ 92101. Legislative Intent.

It is a growing concern that mothers and infants at high medical risk are being discharged too early from the hospital, creating potential postpartum problems. It is the intent of the Legislature that efficient, cost-effective, quality and necessary postpartum health care, and not "drive-through deliveries," are provided to newly-born children and their mothers in the safest manner and at the earliest possible time. It is the intention of the Legislature to set the minimum maternity-stay at forty-eight (48) hours of inpatient care for routine vaginal deliveries and ninety-six (96) hours of inpatient care for Cesarean section for a mother and her newly born child, unless earlier discharge is made in accordance with the medical criteria outlined in the *Public Health and Social Services Maternity-Stay Rules and Regulations*. All individual and group health insurance, health maintenance organizations (HMOs), and nonprofit health plan (NHP) policies delivered or issued for delivery on Guam and which provide maternity coverage shall be required to cover this cost.

§ 92102. Definitions.

As Used in This Chapter:

(1) *Attending clinician* means the attending obstetrician, pediatrician, family practitioner, other physician or certified nurse midwife attending the mother or newly-born child.

(2) *Inpatient* means a patient who is confined to a health facility for medical care.

(3) *Insurers* means any individual or group contract (i.e. individual or group health insurer, health maintenance organizations (HMOs), nonprofit health plan (NHP)) that provides maternity benefits and which policy is delivered, issued, executed or renewed on Guam.

(4) *Maternity benefits* means coverage for prenatal, intrapartum, perinatal or postpartum care.

(5) *Medically necessary* means that the patient's health, in the opinion of the attending physician, would be adversely affected by lack of appropriate treatment.

§ 92103. Adoption of Rules and Regulation.

The Director of Public Health and Social Services shall adopt rules and regulations to implement the health provisions of this section, which includes, but is not limited to, defining a "medically necessary" decision for shortening minimum coverage, and home visit requirements, within six (6) months upon enactment of this Act.

§ 92104. Insurer Contracts.

All insurer contracts delivered or issued for delivery, which are also executed or renewed on Guam, and which provide maternity coverage shall also provide coverage for a minimum of forty-eight (48) hours of inpatient care following a vaginal delivery, and a minimum of ninety-six (96) hours of inpatient care following a cesarean section for a mother and her newly-born child in a health facility, unless earlier discharge is made in accordance with the medical criteria outlined in the most current version of the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists. Such criteria include, but are not limited to, the requirement that family members or other support person(s) should be available to the mother for the first few days following discharge. In addition, a decision for early discharge shall be individualized and shall be a mutual decision between the mother and the attending physician. Inpatient care in excess of a minimum of forty-eight (48) hours following a vaginal delivery and a minimum of ninety-six (96) hours following a cesarean section for a mother and her newly-born child in a health facility shall be covered under the insurance contract, only if determined to be medically necessary by the attending physician.

§ 92105. Maternity-Stay Exemption.

Notwithstanding the provisions of § 92104, an insurance policy delivered or issued for delivery on Guam that provides coverage for postpartum care to a mother and her newly born child in the home shall not be required to provide for coverage for a minimum of forty-eight (48) hours of inpatient care following a vaginal delivery and a minimum of ninety-six (96) hours of inpatient care following a cesarean section, unless such inpatient care is determined to be medically necessary by the attending physician, or early discharge is inconsistent with the Public Health and Social Services Maternity-Stay Rules and Regulations.

§ 92106. In-home Postpartum Care.

Postpartum care in the home shall be made in accordance with accepted maternal and neonatal physician assessments, by a registered professional nurse with community maternal and child health nursing experience or by a person with appropriate licensure, training and experience to provide postpartum care. Services provided by such person shall include, but is not limited to, parent education, assistance and training in breast and bottle feeding, and the performance of any necessary and appropriate clinical tests. Postpartum care in the home shall consist of a minimum of three (3) home visits, unless one or two home visits are determined to be sufficient by the attending physician, registered professional nurse or person with appropriate licensure, training and experience to provide postpartum care. The home visits shall be conducted within the time indicated by the attending physician or registered professional nurse.

§ 92107. Responsibility of Insurer.

Each insurer providing maternity coverage on Guam shall mail a written description of the coverage and notify the expectant mother of her right to complain should she not receive the coverage as required under this Article, in a form approved by the Department of Public Health and Social Services. The approved form shall be issued to the expectant mother covered by the insurer and to her attending physician, upon receipt by the insurer of notification of the diagnosis of pregnancy of the expectant mother.

§ 92108. Appeals Process.

Any subscriber or member who is aggrieved by a denial of benefits to be provided under this section may appeal said denial in accordance with regulations of the Department of Public Health and Social Services.

§ 92109. Incentives or Penalties Prohibited.

No person, insurer, health maintenance organization, nonprofit health care plan, insurance pool, or health insurance alliance, transacting health insurance or providing health care services, as defined herein, on Guam, shall provide, directly or indirectly, any financial incentive or disincentive, or grant or deny any special favor or advantage of any kind or nature whatsoever, to any person to encourage or cause early discharge of a hospital inpatient from postpartum care. Notwithstanding the above, this section does not prohibit use of prospective payment systems including, but not limited to, capitation and diagnostic related groupings, that are designed to promote efficiency in appropriate health care delivery.

§ 92110. Penalties.

In addition to any other penalty provided by law or rule, violation of any provisions of this rule is subject to penalties for violation of the insurance code.

§ 92111. No Statutory Maximum.

Nothing in this Act shall be construed as establishing any maximum limitation on inpatient maternity care or inpatient maternity benefits.

§ 92112. Severability.

If any section of this rule, or applicability of any section to any person or circumstance, is for any reason held invalid by a court, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.
