

Plain English in Insurance Papers

By George H. Hathaway and
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This month we begin our review of insurance papers. We separated insurance papers into three types—life, health, and property/liability. See Figure 1.

National Background

Insurance policies used to be the leading examples of legalese. But in 1975 three insurance companies (Nationwide Mutual, Sentry Life, and St. Paul Fire and Marine) voluntarily rewrote their policies into plain English.¹ State plain English laws concerning insurance contracts (in about 35 states) accelerated this trend toward writing insurance policies in plain English.² Insurance companies who sold multistate policies then rewrote the policies in plain English, regardless of whether any one particular state had a plain English law concerning insurance contracts.

Michigan Background

In Michigan, the insurance industry is regulated by the Michigan Department of Commerce Insurance Bureau. Each insurance company is required to obtain prior approval of its policy from the Insurance Bureau before the company can offer that

"Plain Language" is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the State Bar Plain English Committee. Assistant editor is George Hathaway, chair of the Committee. The Committee seeks to improve the clarity of legal writing and the public opinion of lawyers by eliminating legalese. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

Figure 1—Main Types of Insurance Policies

Type	Specific Policy	Company that sells the most policies in Michigan
Life	Life insurance	Metropolitan Life
Health	Health insurance	Blue Cross Blue Shield of Michigan
Property/Liability	Car insurance	Michigan AAA
	Home insurance	State Farm

policy for sale in Michigan. In 1990, the Michigan Legislature passed a plain English bill concerning insurance policies, 1990 PA 305, codified as MCL 500.2236; MSA 24.12236. The Act, which applies to all policies submitted to the Insurance Bureau after January 1, 1992, describes detailed readability requirements that each policy must meet.

Review of Policies

To see if the plain English movement and state plain English bills have had any effect on the clarity of insurance contracts in Michigan, we reviewed typical insurance policies from the largest sellers of life, health, car, and home insurance in Michigan.³

Life Insurance. One of Metropolitan Life's standard policies, a Whole Life Policy, was developed in 1979. The policy is written in clear language, two columns to a page, on standard letter-size paper. It contains no formalisms, archaic words, redundancies, or long sentences. Furthermore, most of the verbs are strong, active-voice verbs.

Health Insurance. Blue Cross Blue Shield of Michigan calls its contracts certificates and riders. A certificate is equivalent to a policy issued by a commercial insurance company, because it is the contract that explains an insured's benefits. A rider is an amendment to a certificate. We reviewed the "Professional Services Group Benefit Certificate" (Form No. 1879, Bu-

reau Approved 3/92) and the "Rider PPP Preferred Prescription Drug Plan" (Form No. 7574, Bureau Approved 5/92). Both the certificate and rider are clearly written. They contain no formalisms, archaic words, redundancies, or long sentences. Furthermore, most of the verbs are strong, active-voice verbs. Finally, the format is easy to follow with many headings and highlight bullets. See Figure 2—Example from Professional Services Group Benefit Certificate. According to Lisa Varnier, Director of Regulatory Affairs:

"Since 1989, the staff of BCBSM's Regulatory and Governmental Affairs Division has been working on a project to make certificates and riders user-friendly. It was initiated to help BCBSM improve its relations with customers. This project focuses on existing certificates and riders and those that will be used in the future.

"Our objective is to write and format certificates and riders in a way that is easy for a layperson to read, use and understand. To accomplish this, we use words with fewer than three syllables whenever possible, and shorter, simpler sentences. Complex medical, legal and insurance terms which cannot be simplified are defined so our readers will understand their meaning. Complex provisions are illustrated by examples or broken down into several ideas that are highlighted by bullets.

"The results of rewriting certificates in plain English are dramatic. Lengthy, run-on sentences are converted into several short sentences. Here is just one example:

*Sample of old text**Group Conversion
(Direct Payment) Subscribers*

In the event of termination of eligibility of the subscriber for coverage as a member of the group through which his coverage is effective, by reason of termination of employment or otherwise, the subscriber may, by written notice to the Service Association within thirty (30) days after the end of the monthly payment period in which eligibility so terminates, elect to convert this contract to a Group Conversion contract; provided that no such right of conversion shall exist if the group of which the subscriber is a member shall enter into an arrangement to provide any of its eligible members with hospital care or hospital expense protection other than through the Service Association, and if as a result of such arrangement the contracts of all subscribers in the group are terminated by the Service Association or the subscribers.

*The same text in Plain English**Group Conversion Coverage*

When leaving a group health care coverage plan, individual coverage is available through a BCBSM Group Conversion plan. You or your eligible dependents must submit to BCBSM a written request for a Group Conversion contract:

- within 30 days of the date your group coverage was canceled or
- within six months before the date the COBRA group continuation coverage ends (18 or 36 months).

"We also changed the appearance of certificates and riders to enhance their readability. Both were enlarged from 3¾" x 8½" to 5⅝" x 8½". Colored headnotes, bullets and borders were added to highlight the text. Small, light-blue type was replaced with large, black type. More space was allowed for margins. Since riders are usually printed separately from the certificates they amend, we added a pocket in the back of each certificate where riders can be stored.

"All of these changes have been well received. In February 1993, my staff and I

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Figure 2—Example from Professional Services Group Benefit Certificate

Eligibility**Who Is eligible to receive benefits**

You, your spouse and your unmarried children listed on your contract are eligible.

- Unmarried children are covered through the end of the year in which they turn age 19. They must be your dependents as defined by the United States Internal Revenue Code and claimed as an exemption on your tax return.
 - If these children do not live with you, they are eligible under your contract only if their health care is your, or your spouse's, legal responsibility.
- Disabled, unmarried children may remain covered on your contract beyond the end of the year in which they turn age 19. These children must be:
 - diagnosed as permanently disabled due to a physical or mental condition.
 - disabled before the age of 19.
 - dependent on you for all or most of their support. (The disability must prevent the person from supporting him or herself.)
 - eligible members on your contract before they became 19.

If there is a change in your family such as birth, divorce, death, etc., we must be notified within 30 days of the change so that any contract changes take effect as of the date of the event. Any changes in rates resulting from contract changes will take effect with the billing cycle following the event.

received certificates of achievement from the Southeastern Michigan Chapter of the Society for Technical Communication. They were awarded for our work on The Caring Program for Children Health Benefits Certificate. BCBSM has also won several cases due to the enhanced clarity of its certificates and riders."

Car Insurance. One of Michigan AAAs standard policies, the "Car Insurance policy (Edition 1-87)," is written in clear language on standard letter-size paper, just like the life and health insurance policies. The only problem is that the signature clause at the end of the policy still begins with the words "In Witness Whereof."

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Home Insurance. One of State Farm's standard policies, the "Homeowners Policy—Extra Form 3 (Revised 12/90)" is also written in clear language. However, this home policy still contains the following signature clause:

"IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned."

This clause is the one remaining blemish in the policy. The clause has remained in spite of state plain English laws and readability tests. The clause is proof that state plain English laws and readability tests will not completely eliminate legalese. Legalese will never be completely eliminated until the companies that write the policies want to completely eliminate legalese.

We also reviewed a Standard Fire Contract that was separately added to the pol-

icy. This contract is a nightmare of legalese. The contract is no longer required by statute (MCL 500.2832 was repealed by 1990 Public Act 305, effective 1/1/92) and should be discontinued.

Clarity Award

We award a Clarity Award to Blue Cross Blue Shield of Michigan (Lisa Varnier, Director of Regulatory Affairs) for their plain English health insurance certificates and riders.

Legalese List

We add the following formalism to our Legalese List: "In Witness Whereof."

Conclusion

Almost all insurance policies in Michigan are now written in plain English, or at least score fairly well on the readability tests. Furthermore, they have been written in plain English for the last five to ten years. But if you ask the general public, they will still cite insurance policies as prime examples of legalese. Why? First, because insurance policies used to be written in legalese, and people simply gave up trying to read the policies. Second, even though the policies are now easier to read than they once were, it takes a long time for people to realize this. Part of the reason it takes so long is that many other legal documents are still written in legalese. And as long as some legal documents are still written in legalese, the public will continue to think that all legal documents are still written in legalese. That's why it's important to eliminate legalese from all legal documents. ■

Footnotes

1. *How Plain English Works For Business: Twelve Case Studies*, U.S. Department of Commerce Office of Consumer Affairs, March 1984.
2. We printed a list of these state plain English laws on insurance contracts in a November 1983 Michigan Bar Journal article *An Overview of the Plain English Movement for Lawyers*. For a current list, see Kimble, *Plain English: A Charter for Clear Writing*, 9 Cooley L. Rev. 1, 32-25 (1992).
3. We also wrote about these policies in the August 1986 Plain Language Column, *Plain English in Michigan Insurance Policies*.

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Nick Khouri, Chief Deputy State Treasurer
State of Michigan
Lansing, Michigan

"Asset Protection Planning:
Current Issues and Developments"
Howard B. Young
Weisman, Trogan, Young & Schloss, P.C.
Birmingham, Michigan

"Tax Clauses in Estate Planning Documents" and "Planning for Higher Income Tax Rates on Estates and Trusts"
Andrew M. Katzenstein
Bryan Cave
Santa Monica, California

Workshop

"Michigan Residents with Canadian Property: Income Tax and Probate Practice Pointers"
Gerard Charette
Wilson, Walker, Hochberg & Slopen
Windsor, Ontario, Canada

"Generation Skipping Transfer Taxes and the Irrevocable Life Insurance Trust"
Dennis M. Mitzel
Berry, Moorman, King & Hudson
Detroit, Michigan

"Hidden Real Estate Liens Under the Michigan Estate Tax Act: What to Do if Representing a Decedent, a Buyer or a Seller"
George W. Gregory
Lee & Gregory, P.C.
Birmingham, Michigan

Saturday

Conference

"Tax Aspects of the Clinton Health Reform Plan"
U.S. Congressman Sander M. Levin
Vice-Chairperson, Health Subcommittee
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