# Bill of Health

What the new insurance act means for you

December 1, 1997 By Catherine Hanssens

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As the dust settled on the wreckage of health care reform, Congress and the White House managed last year to cooperate long enough to pass the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Although hardly the overhaul we need, HIPAA-dubbed the Kennedy/Kassebaum bill-benefits people with HIV in several ways, expanding both the availability and the portability (changing jobs without losing coverage) of health insurance, while limiting exclusions based on pre-existing conditions.

Anyone with current coverage (through Medicaid or a COBRA group plan) can return to work without worrying that a new employer's plan excludes or restricts HIV. For example, if you leave a long-hated grind for a dream gig elsewhere, you can apply the length of time you enjoyed your former group coverage against any exclusion in your new policy. And if your luck with protease inhibitors allows a transition to a full-time job after eight months or more on Medicaid, that time will be subtracted from any pre-existing-condition restriction in your new health plan. And even if you were uninsured before taking a job with a health plan, the situation's better: Under HIPAA no one with a pre-existing condition can be denied insurance for more than 12 months.

The act defines *pre-existing* as the diagnosis or treatment of a condition during the six-month period before enrollment in the plan. So if you got an AIDS diagnosis a year ago but didn't see a doctor in the past six months, you can't be excluded, even temporarily, from the policy. This protection is particularly important given the dosing demanded by the protease drug, which can turn even the briefest treatment holiday into a resistance gamble.

HIPAA also prohibits discrimination based on health status (such as denying insurance to people with HIV). And in the wake of this summer's Parker v. *Metropolitan Life Insurance Co*. decision-in which an appeals court rejected the idea that under the Americans With Disabilities Act (ADA), insurance policies count as a "public accomodation"-some advocates are looking to HIPAA as a possible weapon against unfair treatment of HIV in their benefits coverage. But linguistic loopholes in the act suggest that its best use is as a tool to get and keep job-related insurance, and in any case its antidiscrimination provisions apply only to group plans.

HIPAA has also revised the rules regarding the tax on viatical settlements. The opportunity to sell a life-insurance policy for cash has made paying bills easier for many PWAs, although with the

advent of health-restoring new drugs, viaticating is now a less reliable source of income. But under HIPAA, people who are terminally ill-doctor-determined to have 24 months or less to live-can now sell their policies tax free, and while those who are chronically ill can also avoid taxes, the money from the sale of their policy must go for long-term care.

These benefits aside, HIPAA in no way guarantees that you can get the coverage you need at a price you can afford. And there's a red flag: For those already worried about the confidentiality of their medical records, the act's "administrative simplification" provisions offer scant comfort. HIPAA calls for the creation of a computer-information network to make it easier for insurers and providers to share data. But the act also requires that Congress enact a medical-records confidentiality law, and at presstime, more than a dozen bills had been introduced. So stay tuned.

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