



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM

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ADVISORY BULLETIN 11-IHC-01

February 28, 2011

To: IHC Program Member Carriers that Issue Coverage
IHC Program Interested Parties

From: Ellen DeRosa
Executive Director

**Re: Notice of a Waiver from the Annual Limits Requirements
Action Required by April 1, 2011**

The purpose of this Advisory Bulletin is to provide carriers issuing the Basic and Essential Health Care Services Plan (B&E Plan) with the text of the notice that must be provided to all individual consumers who currently have or will be issued a B&E Plan.

Background

N.J.S.A. 17B:27A-4.5 requires carriers selling coverage in the individual market to sell a plan with the coverage specified in the law. The law requires the offer of coverage "that includes only the coverages enumerated". Further, the law requires that "Every carrier that writes individual health benefits plans ... shall make available and shall make a good faith effort to market the contract or policy established pursuant to this section." The mandated coverage includes the following annual limits:

- \$500 per year benefit for out of hospital diagnostic tests
- \$600 per year benefit for wellness
- \$700 per year benefit for physician visits.

The \$500, \$600 and \$700 limits are well below the restricted annual limits set forth in Public Health Services Act Section 2711.

The Office of Consumer Information and Insurance Oversight (OCIO) issued sub-regulatory guidance regarding the process for obtaining waivers of the annual limits requirements of the Public Health Services Act Section 2711 on September 3, 2010. That guidance only addressed the process whereby a group health plan or health insurance issuer could apply for a waiver from the restricted annual limits and provided no

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guidance as to how to address plans that are a statutorily required. OCIIO issued additional guidance on November 5, 2010 and established a process for a state waiver request.

I submitted an annual limits waiver request for the \$500, \$600 and \$700 limits as set forth in the B&E Plan. By letter dated December 28, 2010 OCIIO approved the request. The waiver applies to plans issued or renewed from March 23, 2010 through September 22, 2011. I will request a waiver for plans issued or renewed on or after September 23, 2011.

OCIIO issued supplemental guidance on December 9, 2010 providing text of a notice that group health plans and health insurance issuers must provide to current and new participants. The text of the notice as set forth in the guidance was not suitable for the waiver OCIIO approved for the B&E Plans. I requested consideration of modified text. OCIIO, recently re-named as the Center for Consumer Information and Insurance Oversight (CCIIO), approved the New Jersey specific text on February 25, 2011. The New Jersey specific text includes variable text carriers may include to address any carrier-requested waivers for supplemental benefits included in a B&E Plan.

Required Action

Attached is the notice text CCIIO approved for use with the B&E Plans. As stated in the December 9, 2011 Supplemental Guidance, the notice must be printed in 14 point bold type and must be provided on the front of materials issued.

The December 9, 2011 Supplemental Guidance stated that notices had to be sent within 60 days from the date of issuance of the guidance. Since negotiations regarding the text of the notice were ongoing at that time CCIIO understood that notices for the B&E Plan would not be issued within that 60-day timeframe.

All carriers issuing B&E Plans must provide the attached notice to all inforce policyholders no later than April 1, 2011 and must begin including the notice with all policies issued beginning April 1, 2011.

Carriers should acknowledge receipt of this Advisory Bulletin and confirm that the required notice will be provided.

If you have any questions, please contact me at 609-633-1882 ext 50302 or ellen.derosa@dobi.state.nj.us.

The Affordable Care Act prohibits health plans from applying arbitrary dollar limits for coverage for key benefits. This year, if a plan applies a dollar limit on the coverage it provides for key benefits in a year, that limit must be at least \$750,000.

The benefits and limitations included in your health insurance coverage are mandated by New Jersey law. All companies offering individual coverage in New Jersey are required to offer the limited benefit coverage which is known as the Basic and Essential (B&E) plan. The B&E plan does not meet the minimum standards required by the Affordable Care Act described above. Instead, it puts an annual limit of:

- **\$500 per person per calendar year for out-of-hospital diagnostic tests**
- **\$600 per person per calendar year for wellness benefits**
- **\$700 per person per calendar year for physician visits for illness or injury**

In order to apply the lower limits described above, the State requested a waiver of the requirement that the coverage for key benefits be at least \$750,000 this year. That waiver was granted by the U.S. Department of Health and Human Services based on the State's representation that providing \$750,000 in coverage for key benefits this year would result in a significant decrease in your access to benefits. This waiver is valid for one year.

[The B&E plan entirely excludes coverage for some services and supplies. [Carrier's name] elected to add limited [type of benefit] benefits to the B&E plan so consumers would have some coverage for [type of benefit]. The annual limit for [type of benefit] is:

- **[limit]**

In order to apply the lower limits for [type of benefit] [Carrier's name] requested a waiver of the requirement that the coverage for key benefits be at least \$750,000 this year. That waiver was granted by the U.S. Department of Health and Human Services based on the [Carrier's name] representation that providing \$750,000 in coverage for key benefits this year would result in a significant decrease in your access to benefits. This waiver is valid for one year.]

If the lower limits are a concern, there may be other options for health coverage available to you and your family members. For more information, go to http://www.state.nj.us/dobi/division_insurance/ihcseh/shop_ihc.htm.

If you have any questions or concerns about this notice for the waiver the State requested, contact the New Jersey Individual Health Coverage Program at 609-633-1882 ext 50302 or by email at ellen.derosa@dobi.state.nj.us. [Questions or concerns about the waiver [carrier's name] requested should be directed to [Carrier].] In addition, you can contact the Consumer Assistance Program at 609-292-7272.