



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM

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Governor

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THOMAS B. CONSIDINE
Commissioner

ADVISORY BULLETIN 11-IHC-02

September 30, 2011

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

From: Ellen DeRosa
Executive Director

**Re: Waiver from the Annual Limits Requirements Renewed
Action Required before November 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.

In Advisory Bulletin 11-IHC-01 issued February 28, 2011 I provided background information regarding the waiver the State of New Jersey requested and received for the B&E Plan. In order to maintain the B&E Plans with the annual limits beyond September 23, 2011 the State of New Jersey filed in August to renew the waiver. CCIIO advised that approvals would not be issued but they would advise filers if the renewal was disapproved. We did not receive a notice of disapproval therefore the waiver was renewed.

Required Action

All existing B&E policyholders must be issued a notice to inform them of the waiver. Consistent with the original notice, the notice must be printed in bold 14-point type. All new policyholders must be issued the notice with the newly issued policy. When included with the policy the notice should be placed toward the front.

I received thousands of consumer calls following release of the original notice. I understand carriers likewise received many inquires from consumers. While the text of the notice to be issued cannot be adjusted to try to address the concerns and questions consumers had with the original notice, CCIIO advised me it would be permissible to

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include a cover letter with the notice. I prepared an explanation letter that addresses the types of questions and concerns consumers raised following release of the original notice. The explanation letter is attached and should be mailed with the Annual Notice of Waiver for 2012.

Some consumers receiving the notice may decide the B&E plan they bought is not suitable for their needs and want to buy richer coverage. Since the Open Enrollment Period occurs during November the explanation letter and Annual Notice of Waiver for 2012 should be mailed before the end of October 2011 such that a consumer who wishes to apply for a richer plan will have the opportunity to do so during November.

All carriers issuing new B&E plans must begin including the explanation letter and Annual Notice of Waiver for 2012 no later than November 1, 2011.

The text of the Annual Notice of Waiver for 2012 follows. The fourth paragraph of the text only applies to carriers that renewed waivers with respect to benefits added by rider. The text of the explanation letter is attached and ready to copy.

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

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

Annual Notice of Waiver for 2012

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 \$1.25 million.

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 \$1.25 million this year. That waiver was granted by the U.S. Department of Health and Human Services based on the State's representation that providing \$1.25 million in coverage for key benefits this year would result in a significant decrease in your access to benefits. This waiver is valid until January 1, 2014.

[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 \$1.25 million 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 \$1.25 million in coverage for key

benefits this year would result in a significant decrease in your access to benefits. This waiver is valid until January 1, 2014.]

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].]



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THOMAS B. CONSIDINE
Commissioner

October 2011

Dear New Jersey Consumer,

I asked all of the companies selling the Basic and Essential (B&E) Plan in New Jersey to include this letter along with the Annual Notice of Waiver for 2012 (Notice) which is required by Federal law. If you are a new customer the Notice may raise questions. If you already have coverage under a B&E plan you may wonder why you are getting the Notice again. The purpose of my letter is to help you understand what the Notice means for you.

First, I'll offer a little background. There are many health benefit plans sold in New Jersey that provide coverage for a full range of services and supplies and have no dollar limits on benefits for the services or supplies. Because the benefits are comprehensive, the cost for the plans is expensive. Some people want to buy coverage but simply cannot afford it. Back in 2003 a New Jersey law was enacted that required all companies selling individual coverage to also sell a more affordable plan called the Basic and Essential Healthcare Services Plan (B&E Plan). In order to achieve the desired affordability (i.e. lower premium) the law identifies a limited list of services and supplies the B&E Plan must cover and applies annual dollar limits to several of the services. The B&E Plan is a limited benefit plan that does not provide coverage for some services and supplies a person may expect or need a health plan to cover.

One goal under the new Federal law called the Patient Protection and Affordable Care Act (ACA) is for people to have plans that do not contain annual dollar limits. The law recognizes that there may be good reasons for continuing to allow annual benefit limits and thus created a process whereby plans and States can request what is called a "waiver" from the annual limits requirements. The "waiver" means the annual limits may remain in place.

In order to preserve the B&E Plan as an option for New Jersey residents, the State of New Jersey requested a waiver in 2010. The waiver was granted. The waiver is for one year at a time. The State of New Jersey renewed the waiver in 2011 and intends to renew the waiver so the B&E Plan can remain an available plan until December 31, 2013. As of January 2014 different provisions of the ACA will apply.

The Federal government wanted to be sure everyone who bought the B&E Plan understands that the coverage they bought has limited benefits and required that people covered under the B&E Plan be given a notice discussing the limits and the waiver. The notice for the 2010 waiver was first sent out early in 2011. Many of you reading this letter received that notice. A notice must be sent out each year the State of New Jersey renews the waiver. The Federal government wrote the basic text of the Annual Notice of Waiver for 2012. New Jersey was permitted to modify the text to address the specifics of the waiver that was received. The companies selling the B&E Plan are given the Notice to mail to all of their customers covered under the B&E Plan.

Now that you know why you are getting the Notice, I'll offer some information on what it means to you.

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The Notice describes the limited coverage under the B&E Plan that all companies selling individual coverage in New Jersey must sell. If you bought a plain B&E Plan (without any extra benefits added), the \$500, \$600 and \$700 annual limits stated in the Notice are already part of your plan. The Notice does not add them. They already exist. The Notice is not advising you of any change that has been made or will be made to your plan. If you bought a B&E Plan with extra benefits that is sold with names such as Plus, Enhanced, Basic, or Preferred, then your plan does not apply one or more of the annual limits. The Notice is not adding the annual limit(s) back into the plan. To better understand any added benefits you bought refer to your plan or call member services at the number on your ID card.

The Notice mentions \$1.25 million in coverage. There is no \$1.25 million limit in your B&E plan and the Notice does not add such a limit. That dollar amount comes from the Federal law and is used to help determine if the annual limits in the B&E Plan should be continued. New Jersey had to determine what would happen if the \$500, \$600 and \$700 annual limits were each increased to an annual limit of \$1.25 million. The result would have been a significant increase in premium for the coverage which we believe would have made the plan unaffordable for many people. The result would have been people dropping coverage and becoming uninsured because the cost would have exceeded what their budgets would allow.

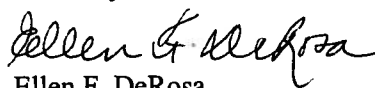
I realize none of you intentionally sought out a plan that limits benefits and you are likely not happy knowing you have a limited benefits plan. Most people buy the B&E Plan because the premium is within their budget. While the coverage is not comprehensive coverage, it is nevertheless good coverage for some services that could cost a lot of money. For example, the B&E Plan provides coverage for up to 90 days of hospitalization per year. Hopefully a person does not need to stay 90 days, but even if a person does, the only out of pocket cost to the patient for the entire hospitalization is the \$500 copay.

The Notice explains that other plans without limits are available in New Jersey. If you are an existing customer under a B&E Plan and decide you want to buy a more comprehensive plan the time to do it is during the November Open Enrollment Period. The calendar month of November is the time each year when a person already covered under an individual plan can apply to buy a better plan. The replacement plan will take effect January 1. The person would cancel the B&E Plan as of December 31 so there is no overlap in coverage. If you are a new customer and you are reading this letter with the plan you just bought and you think you should have selected a different plan, you do not need to wait for the November Open Enrollment period. Every individual policy has a 30-day Right to Examine the policy provision. This means a person can return the policy during the first 30 days after having received it. The insurance company will return the premium paid less any claims that were paid. A person who returns a B&E Plan using the Right to Examine provision can buy a different plan at any time.

I hope my letter helps you understand the Annual Notice of Waiver for 2012 that appears on the next page. As you read the Notice remember it is not changing anything you already bought and you do not have to do anything unless you decide to buy another plan.

If you still have questions after having read my letter and the Notice please feel free to email me at ellen.derosa@dobi.state.nj.us. The Notice also includes my phone number, but email is generally the best way to reach me.

Sincerely,



Ellen F. DeRosa
Executive Director