



## State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE  
INDIVIDUAL HEALTH COVERAGE PROGRAM

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CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

KENNETH E. KOBYSLOWSKI  
*Acting Commissioner*

### ADVISORY BULLETIN 12-IHC-01

July 30, 2012

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  
Implementation Requested by September 4, 2012**

In addition to providing Basic and Essential Health Care Services Plan (B&E Plan) policyholders the Annual Notice of Waiver (Notice) when the B&E plan is issued and in conjunction with the annual mailing, CCIIO has advised that the Notice must be provided to *eligible* persons and cannot be limited to those persons who actually have the coverage. The purpose of this Advisory Bulletin is to notify carriers issuing the B&E Plan that the Notice must be provided to all consumers who are seeking to purchase individual coverage.

#### **Necessary Action**

Consumers interested in purchasing an individual plan request information and the application from the carriers. Carriers must include the Notice when fulfilling the request with printed materials or fulfilling the request electronically.

The Notice text is the same text included with policies at issue and sent with the annual mailing. Recognizing that receiving the Notice with materials describing individual plan options will certainly be confusing to potential applicants, particularly applicants interested in the comprehensive standard plan options, I prepared an explanation letter. Please include my letter with the Notice.

Please begin including the explanation letter and Notice with materials provided to prospective applicants no later than September 4, 2012.

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 as a “pdf” file and ready to copy.

I will be filing to extend the waiver for 2013. Upon conclusion of that filing I will release another Advisory Bulletin with the Annual Notice of Waiver for 2013 such that the annual Notice filing can occur this fall.

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

Thank you for your continued cooperation with the Notice requirements. If you have any questions, please contact me at 609-633-1882 ext 50302 or [ellen.derosa@dobi.state.nj.us](mailto: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](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](mailto: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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Dear New Jersey Consumer,

I asked all of the companies selling individual coverage in New Jersey to include this letter and Annual Notice of Waiver (Notice) in the materials sent to all consumers who have requested information on buying individual coverage.

If you are interested in buying the Basic and Essential (B&E) Plan I encourage you to carefully read my letter and the accompanying Notice. The information in my letter and the Notice only applies to the B&E plan. It does NOT apply to any other plan. So, if you are interested in buying any other type of plan the letter and Notice do not apply to you so you can stop reading and recycle the letter and Notice.

If you are considering buying the B&E plan the Notice provides important information. The purpose of my letter is to help you understand what the Notice means for people who are considering the B&E plan.

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 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. The waiver was granted. 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 is thinking about buying the B&E Plan understands that the coverage they are considering has limited benefits. The Federal government requires that people interested in the B&E Plan be given a Notice discussing the limits and the waiver. The Federal government wrote the basic text of the Notice. 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 interested in buying B&E coverage. If you buy a B&E plan

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Federal law requires that you be given the Notice again with the policy the insurance company issues. In addition, Federal law requires that all people covered under a B&E plan must be sent the Notice on an annual basis meaning you will receive the Notice yet again. Since the same Notice is used in circumstances where recipients are covered already under a B&E plan the text is written as if the recipient is covered. As a prospective applicant, the information applies to you if you elect to apply for and become 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.

The Notice describes the limited coverage under the B&E Plan that all companies selling individual coverage in New Jersey must sell. If you buy a plain B&E Plan (without any extra benefits added), the \$500, \$600 and \$700 annual limits stated in the Notice will be part of your plan. The Notice does not add them. They already exist. The Notice is not advising you of any change that will be made to your plan. If you buy a B&E Plan with extra benefits that is sold with names such as Plus, Enhanced, Basic, or Preferred, then your plan will 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 please review the marketing materials that describe them.

The Notice mentions \$1.25 million in coverage. There is no \$1.25 million limit in a 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 being uninsured because the cost would have exceeded what their budgets would allow.

I realize none of you are intentionally seeking out a plan that limits benefits. 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.

I hope my letter helps you understand the Notice that appears on the next page. As you read the Notice remember it is not changing anything about the plan you are considering. Rather, it highlights the limits. If you prefer buying a plan without limits please refer to the marketing materials describing other options or visit the Shopping for Health Insurance – Individual Market page at [http://www.state.nj.us/dobi/division\\_insurance/ihsch/shop\\_ihc.htm](http://www.state.nj.us/dobi/division_insurance/ihsch/shop_ihc.htm)

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](mailto: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