



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM

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ADVISORY BULLETIN 12-IHC-02

September 25 2012

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

From: Ellen DeRosa
Executive Director

**Re: Adopted Amendments to Standard Plans A/50, B, C, D, and HMO and
Specimen Basic and Essential Plan**

In August 2012 the Individual Health Coverage Program Board (IHC Board) issued a rule proposal proposing amendments to the standard plans A/50, B, C, D and HMO and the specimen Basic and Essential (B&E) plan. The IHC Board used the special rulemaking process set forth at N.J.S.A. 17B:27A-16.1 which allows for a comment period of at least 20 days after which the IHC Board may adopt the amendments. No comments were received during the public hearing on the amendments or during the period for written comments. At its meeting on September 11, 2012 the IHC Board voted to adopt the amendments as proposed. The notice of adoption is expected to appear in the October 15, 2012 *New Jersey Register*. The proposal and the adoption may be found on the following website:

http://www.state.nj.us/dobi/division_insurance/ihcseh/ihcrulesadoptions.htm

Several of the amendments bring the standard plans the B&E plan into compliance with applicable State and Federal laws which are already in effect. Recognizing that carriers have been complying administratively with both State and Federal laws and the fact that the process of amending policy and contract forms is both lengthy and costly the IHC Board determined it appropriate to give Carriers the option to implement the amendments to the forms by using the Compliance and Variability Rider set forth at N.J.A.C. 11:20 Appendix Exhibit D **or** by incorporating the change into the standard plans and the B&E plan. The IHC Board established January 1, 2013 as the Operative Date and thus Carriers must begin using the rider **or** issuing the amended text for new issues and renewals no

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later than January 1, 2013. The text to be included on the Compliance and Variability rider by those carriers that choose that option is set forth below.

The adopted amendments to Plans A/50, B, C and D also include variable text a carrier would use to create an EPO plan design. Since new policy forms will be issued for the EPO plan the amendments to comply with State and Federal law must be included in the EPO policy forms.

Text to be included on Exhibit D, Compliance and Variability Rider for Plans A/50, B, C or D (for plans other than EPO)

I. The **DEFINITIONS** section is amended as follows:

The Definition of Preventive Care is deleted and replaced with the following:

Preventive Care means:

- a) Evidence based items or services that are rated “A” or “B” in the current recommendations of the United States Preventive Services task Force with respect to the Covered Person;
- b) Immunizations for routine use for Covered Persons of all ages as recommended by the Advisory Committee on Immunization Practices of the Centers of Disease Control and Prevention with respect to the Covered Person;
- c) Evidence–informed preventive care and screenings for Covered Persons who are infants, children and adolescents, as included in the comprehensive guidelines supported by the Health Resources and Services Administration;
- d) Evidence–informed preventive care and screenings for female Covered Persons as included in the comprehensive guidelines supported by the Health Resources and Services Administration; and
- e) Any other evidence-based or evidence-informed items as determined by federal and/or state law.

Examples of preventive care include, but are not limited to: routine physical examinations, including related laboratory tests and x-rays, immunizations and vaccines, well baby care, pap smears, mammography, screening tests, bone density tests, colorectal cancer screening, and Nicotine Dependence Treatment.

II. The **COVERED CHARGES** provision is amended as follows:

[The Prescription Drugs provision is amended to include the following sentence.
As explained in the **Orally Administered Anti-Cancer Prescription Drugs** provision below additional benefits for such prescription drugs may be payable.]

[Note: Carriers should include the amendment to the Prescription Drugs provision if consistent with the Carrier’s approach to administration of the Orally Administered Anti-Cancer Prescription Drugs benefit.]

The Orally Administered Anti-Cancer Prescription Drugs provision is added.

Orally Administered Anti-Cancer Prescription Drugs As used in this provision, orally administered anti-cancer prescription drugs means Prescription Drugs that are used to slow or kill the growth of cancerous cells and are administered orally. Such anti-cancer Prescription Drugs does not include those that are prescribed to maintain red or white cell counts, those that treat nausea or those that are prescribed to support the anti-cancer prescription drugs. Any such Prescription Drugs are covered under the Prescription Drugs provision of the Policy.

[We cover orally administered anti-cancer prescription drugs that are Medically Necessary and Appropriate as Network Services and Supplies if the Covered Person is receiving care and treatment from a Network Practitioner who writes the prescription for such Prescription Drugs. We cover orally administered anti-cancer prescription drugs that are Medically Necessary and Appropriate as Non-Network Services and Supplies if the Covered Person is receiving care and treatment from a Non-Network Practitioner who writes the prescription for such Prescription Drugs.]

[Anti-cancer prescription drugs are covered subject to the terms of the **Prescription Drugs** provision of the Policy as stated above. The Covered Person must pay the deductible and/or coinsurance required for Prescription Drugs. Using the receipt from the pharmacy, the Covered Person may then submit a claim for the anti-cancer prescription drug under this Orally Administered Anti-Cancer Prescription Drugs provision of the Policy. Upon receipt of such a claim We will compare the coverage for the orally-administered anti-cancer prescription drugs as covered under the Prescription Drugs provision to the coverage the Policy would have provided if the Covered Person had received intravenously administered or injected anti cancer medications [from the Network or Non-Network Practitioner, as applicable] to determine which is more favorable to the Covered Person in terms of copayment, deductible and/or coinsurance. If the Policy provides different copayment, deductible or coinsurance for different places of service, the comparison shall be to the location for which the copayment deductible and coinsurance is more favorable to the Covered Person. If a Covered Person paid a deductible and/or coinsurance under the Prescription Drug provision that exceeds the copayment, deductible and/or coinsurance that would have applied for intravenously administered or injected anti cancer medications the Covered Person will be reimbursed for the difference.]

[Note: If a Carrier uses a different procedure to comply with the requirements of P.L. 2011, c.188 the Carrier should omit the above paragraph and insert text consistent with the Carrier's procedure.]

III. APPEALS PROCEDURE

[The Appeal Procedure text must satisfy the requirements of N.J.A.C. 11:24-8.5 et seq. or N.J.A.C. 11:24A-3.4 et seq., as appropriate. The text must include specific information regarding the Stage 1 and External Appeals process.]

[Note: If the Appeal text has not already been updated, the updated text it should be included on the rider.]

Text to be included on Exhibit D, Compliance and Variability Rider for HMO Plans

I. The **DEFINITIONS** section is amended as follows:

The Definition of **PREVENTIVE CARE** is deleted as replaced with the following:

PREVENTIVE CARE. Preventive care means:

- f) Evidence based items or services that are rated “A” or “B” in the current recommendations of the United States Preventive Services task Force with respect to the Covered Person;
- g) Immunizations for routine use for Covered Persons of all ages as recommended by the Advisory Committee on Immunization Practices of the Centers of Disease Control and Prevention with respect to the Covered Person;
- h) Evidence-informed preventive care and screenings for Covered Persons who are infants, children and adolescents, as included in the comprehensive guidelines supported by the Health Resources and Services Administration;
- i) Evidence-informed preventive care and screenings for female Covered Persons as included in the comprehensive guidelines supported by the Health Resources and Services Administration; and
- j) Any other evidence-based or evidence-informed items as determined by federal and/or state law.

Examples of preventive care include, but are not limited to: routine physical examinations, including related laboratory tests and x-rays, immunizations and vaccines, well baby care, pap smears, mammography, screening tests, bone density tests, colorectal cancer screening, and Nicotine Dependence Treatment.

II. The **COVERED SERVICES AND SUPPLIES** provision is amended as follows:

[Item 10 of the Outpatient Services section is amended to add the following sentence:
As explained in the **Orally Administered Anti-Cancer Prescription Drugs** provision below additional benefits for such prescription drugs may be payable.]

[Note: Carriers should include the amendment to the Prescription Drugs provision if consistent with the Carrier's approach to administration of the Orally Administered Anti-Cancer Prescription Drugs benefit.]

The Orally Administered Anti-Cancer Prescription Drugs provision is added.

22) **Orally Administered Anti-Cancer Prescription Drugs** As used in this provision, orally administered anti-cancer prescription drugs means Prescription Drugs that are used to slow or kill the growth of cancerous cells and are administered orally. Such anti-cancer Prescription Drugs does not include those that are prescribed to maintain red or white cell counts, those that treat nausea or those that are prescribed to support the anti-cancer prescription drugs. Any such Prescription Drugs are covered under the Prescription Drugs provision of the Contract.

[Anti-cancer prescription drugs are covered subject to the terms of the **Prescription Drugs** provision of the Contract as stated above. The [Member] must pay the coinsurance required for Prescription Drugs. Using the receipt from the pharmacy, the

[Member] may then submit a claim for the anti-cancer prescription drug under this Orally Administered Anti-Cancer Prescription Drugs provision of the Contract. Upon receipt of such a claim We will compare the coverage for the orally-administered anti-cancer prescription drugs as covered under the Prescription Drugs provision to the coverage the Contract would have provided if the [Member] had received intravenously administered or injected anti cancer medications from the Network Practitioner to determine which is more favorable to the [Member] in terms of copayment, deductible and/or coinsurance. If the Contract provides different copayment, deductible or coinsurance for different places of service, the comparison shall be to the location for which the copayment, deductible and coinsurance is more favorable to the [Member]. If a [Member] paid coinsurance under the Prescription Drug provision that exceeds the copayment, deductible and/or coinsurance that would have applied for intravenously administered or injected anti cancer medications the [Member] will be reimbursed for the difference.]

[Note: If a Carrier uses a different procedure to comply with the requirements of P.L. 2011, c.188 the Carrier should omit the above paragraph and insert text consistent with the Carrier's procedure.]

III. APPEAL PROCEDURE

NOTE TO CARRIERS: Insert Appeals Procedure text here. The Appeal Procedure text must satisfy the requirements of N.J.A.C. 11:24-8.5 et seq. The text must include specific information regarding the Stage 1 and External Appeals process.

[Note: If the Appeal text has not already been updated, the updated text it should be included on the rider.]

Text to be included on Exhibit D, Compliance and Variability Rider for B&E Plans that employ the specimen form

I. The **DEFINITIONS** section is amended as follows:

The Definition of Preventive Care is deleted and replaced with the following:

PREVENTIVE CARE means:

- k) Evidence based items or services that are rated “A” or “B” in the current recommendations of the United States Preventive Services task Force with respect to the Covered Person;
- l) Immunizations for routine use for Covered Persons of all ages as recommended by the Advisory Committee on Immunization Practices of the Centers of Disease Control and Prevention with respect to the Covered Person;
- m) Evidence-informed preventive care and screenings for Covered Persons who are infants, children and adolescents, as included in the comprehensive guidelines supported by the Health Resources and Services Administration;
- n) Evidence-informed preventive care and screenings for female Covered Persons as included in the comprehensive guidelines supported by the Health Resources and Services Administration; and

- o) Any other evidence-based or evidence-informed items as determined by federal and/or state law.

Examples of preventive care include, but are not limited to: routine physical examinations, including related laboratory tests and x-rays, immunizations and vaccines, well baby care, pap smears, mammography, screening tests, bone density tests, colorectal cancer screening, and Nicotine Dependence Treatment.

III. APPEALS PROCEDURE

The Appeal Procedure text must satisfy the requirements of N.J.A.C. 11:24-8.5 et seq. or N.J.A.C. 11:24A-3.4 et seq., as appropriate. The text must include specific information regarding the Stage 1 and External Appeals process.

[Note: If the Appeal text has not already been updated, the updated text it should be included on the rider.]