



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM
PO Box 325
TRENTON, NJ 08625-0325

RICHARD J. CODEY
Acting Governor

TEL (609) 633-1882
FAX (609) 633-2030

DONALD BRYAN
Acting Commissioner

ADVISORY BULLETIN
05-IHC-03

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To: IHC Program Members

From: Wardell Sanders, IHC Program Executive Director

Re: Riders to the Basic and Essential Health Care Services Plan

P.L. 2001, c.368, codified in part as N.J.S.A. 17B:27A-4.4 through -4.7, sets forth a benefit package, known as the Basic and Essential Health Care Services Plan (or "B&E Plan"), which carriers issuing standard individual health benefits plans are required to offer in the individual market. Carriers began issuing the B&E Plan in March of 2003. As permitted by the law, one carrier chose to issue an optional benefit rider of increasing value with the B&E plan; that rider provided for a modest increase in benefits. The Board recently received the first rider that provided for more than a modest increase in benefits. That rider was approved at the Board's April 12, 2005 meeting. That approval was conditioned on that carrier meeting certain requirements that are reflected in this Bulletin.

As part of an upcoming readoption with amendments of its regulations, the Board will propose regulations setting forth the standards with which carriers must comply if they seek to offer the B&E plans with riders. The purpose of this Bulletin is to provide guidance to carriers who wish to offer riders to the B&E plan in advance of the rulemaking.

The law that created the B&E Plan permits carriers to file riders that increase benefits: "Carriers may offer enhanced or additional benefits for an additional premium amount in the form of a rider or riders, each of which shall be comprised of a combination of enhanced or additional benefits, in a manner which will avoid adverse selection to the extent possible." N.J.S.A. 17B:27A-4.5d. The existing regulation that addresses riders that amend the B&E plan can be found at N.J.A.C. 11:20-22.5. The Board intends to amend its existing regulation to address the standards to be utilized to evaluate whether the rider will avoid adverse selection to the extent possible. In order to provide guidance to carriers seeking to file riders to the B&E Plan prior to the adoption of those amendments, the Board is issuing this Bulletin.

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The statute provides that riders may be developed for the B&E Plan that increase the benefits provided under the B&E Plan N.J.S.A. 17B:27A-4.5d. The statute requires that riders “avoid adverse selection to the extent possible.”

Adverse selection is defined as “[t]he tendency of high risks to be more likely to buy insurance or to buy larger amounts than low risks” Risk Classification in Life Insurance (Cummins, et. al. 1983). This definition will be incorporated into the amendments to the regulations governing B&E Plans. The Board interprets the statutory requirement that the riders avoid adverse selection to the extent possible as a **continuing obligation** that the Board will monitor on an ongoing basis.

If a carrier wishes to file a rider that provides an increase in benefits, the carrier shall:

1. Follow the existing rule at N.J.A.C. 11:20-22.5.
2. At the time that the carrier files the rider with the Board for approval, certify as part of the certification that is currently required by N.J.A.C. 11:20-22.5(b)3 that:
 - (a) the carrier shall offer the rider in a manner which will avoid adverse selection to the extent possible;
 - (b) none of the ridered benefits exceed the benefits in the standard Plan A/50 through Plan D plans, or HMO plan, as applicable (benefits would include any benefits set forth in the standard Plan A/50 through Plan D “Covered Charges” or “Charges Covered with Special Limitations” sections of the policy or set forth in the standard HMO “Covered Services and Supplies” section of the contract); and
 - (c) if an HMO, none of the ridered benefits are provided with a copayment that is lower than the lowest HMO copayment option allowed by the Board’s regulations.
3. Provide as part of the filing a comprehensive comparison of the benefits in the proposed rider with the carrier’s standard A/50 through D plan or standard HMO plan, as applicable.

To assist the Board in monitoring on an ongoing basis whether a B&E rider avoids adverse selection to the extent possible, carriers whose enhanced B&E riders are approved will also be required to provide the following information:

- (a) No later than 60 days following the close of each calendar quarter, for standard indemnity plans, standard PPO plans, standard HMO plans, B&E plans issued without a rider, and B&E plans issued with a rider, reported separately as to each type of plan:
 - i. earned premium for the calendar quarter;
 - ii. paid claims for the calendar quarter;
 - iii. new business enrollment reporting both the number of contracts and number of lives for the calendar quarter, which shall include the enrollment of persons who applied for and were issued coverage, whether or not the persons were new customers to the carrier or had coverage under other plans issued by the carrier and terminated the prior plans in favor of the plan for which application was made; and

- iv. total enrollment (total inforce) reporting both number of contracts and number of lives as of the last day of the calendar quarter.
- (b) No later than 60 days following the close of each calendar quarter, for B&E plans issued during the calendar quarter with a rider:
- i. the number of persons enrolled who were previously uninsured; and
 - ii. for all persons previously insured, the numbers of persons whose prior source of coverage was group; COBRA/state continuation; standard IHC plan; unridered B&E plan, or other B&E Plan with rider.
- (c) No later than 90 days following the close of the calendar year, for standard indemnity plans, standard PPO plans, standard HMO plans, B&E plans issued without a rider, and B&E plans issued with a rider , reported separately as to each type of plan:
- i. earned premium for the calendar year; and
 - ii. incurred claims for the calendar year.

A carrier may need to collect additional data from the enrollees in order to fulfill this obligation. That additional data may be collected separately from the standard application form.

Questions regarding this bulletin may be directed to:

Wardell Sanders
Executive Director
Wsanders@dobi.state.nj.us
609.633.1882x50306