

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

Individual Health Coverage Program

Individual Health Benefits Plans

Proposed Amendments: N.J.A.C. 11:20 Appendix Exhibits A and B.

Authorized By: New Jersey Individual Health Coverage Program Board, Ellen DeRosa,
Executive Director.

Authority: N.J.S.A. 17B:27A-2 et seq.

Calendar Reference: See Summary below for an explanation of inapplicability of the calendar requirement.

Proposal Number: PRN 2015-____.

As required by N.J.S.A. 17B:27A-16.1, interested parties may testify with respect to the standard health benefits plans set forth in N.J.A.C. 11:20 Appendix Exhibits A and B of the Appendix to, at a **public hearing** to be held at 9:00 A.M. on Wednesday April 29, 2015 at the New Jersey Department of Banking and Insurance, 11th floor Conference Room, 20 West State Street, Trenton, New Jersey.

Submit comments by May 11, 2015 to:

Ellen DeRosa

Executive Director

New Jersey Individual Health Coverage Program Board

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The agency proposal follows:

Summary

The Individual Health Coverage (IHC) Program was established in accordance with P.L. 1992, c. 161. The IHC Program is administered through a Board of Directors (Board). The primary functions of the IHC Program and its Board are the creation of standard health benefits plans (standard plans) to be offered in the individual market in New Jersey and the regulation of the individual health coverage market. There are five standard plans, which have been established through regulation, and are set forth in Exhibits A and B of the Appendix to N.J.A.C. 11:20. The following amendments apply to Exhibits A and B.

The IHC Program Board proposes an amendment to the Exclusions provision in Exhibit A and to the Non-Covered Services and Supplies provision in Exhibit B to add variable exclusion text for services as addressed by Federal law in Section 1303 of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152 (collectively, PPACA). Carriers issuing individual health benefits plans have the option to include or exclude the variable exclusion text in one or more of the plans the carriers make available. The IHC Board realizes that while there are currently no carriers issuing Multi-State Plans as established by Section 1334 of PPACA in New Jersey, one or more Multi-State Plans will be introduced as required by Section 1334. The optional exclusion text will facilitate compliance with the Federal requirements associated with Multi-State Plans.

IHC Rulemaking Procedures

The IHC Board is proposing these amendments in accordance with the special action process established at N.J.S.A. 17B:27A-16.1, as an alternative to the common rulemaking process specified at N.J.S.A. 52:14B-1 et seq. Pursuant to N.J.S.A. 17B:27A-16.1, the IHC Board may expedite adoption of certain actions, including modification of the IHC Program's health benefits plans and policy forms, if the IHC Board provides interested parties a minimum 20-day period during which to comment on the Board's intended action following notice of the intended action in three newspapers of general circulation, with instructions on how to obtain a detailed description of the intended action and the time, place, and manner by which interested parties may present their views regarding the intended action. Concurrently, the IHC Board must forward notice of the intended action to the Office of Administrative Law (OAL) for publication in the New Jersey Register, although the comment period runs from the date the notice is submitted to the newspapers and OAL, not from the date of publication of the notice in the New Jersey Register. The IHC Board also sends notice of the intended action to affected trade and professional associations, carriers, and other interested persons who may request such notice. In addition, for intended modifications to the health benefits plans, the IHC Board must allow for testimony to be presented at a public hearing prior to adopting any such modifications. Subsequently, the IHC Board may adopt its intended action immediately upon the close of the specified comment period or close of a public hearing (whichever is later) by submitting the adopted action to the OAL for publication. The adopted action is effective upon the date of its submission to the OAL, or such later date as the Board may designate. If the Board does not respond to commenters as part of the notice of adoption, the Board will respond to the comments timely submitted within a reasonable period of time thereafter in a separately-prepared report which will be submitted to OAL for publication in the New Jersey Register. Pursuant to

N.J.S.A. 17B:27A-51, all actions adopted by the Board are subject to the requirements of this special rulemaking procedure notwithstanding the provisions of the Administrative Procedure Act. As a result, the quarterly calendar requirement set forth at N.J.A.C. 1:30-3.1 is not applicable when the Board uses its special rulemaking procedures.

Social Impact

The IHC Board recognizes that social impact of the proposed amendment to include a new variable exclusion is dependent on the election carriers make with respect to use of the variable exclusion. To the extent a carrier does not elect to include the optional exclusion in any of the plans the carrier offers, the coverage will remain the same as it has been in the past and the social impact to consumers buying plans from such carrier will be unchanged. To the extent a carrier elects to include the optional exclusion in one or more plans, consumers who wish to buy a plan containing the exclusion will have the opportunity to buy such a plan which would have a positive social impact for such consumers.

Economic Impact

The IHC Board recognizes that economic impact of the proposed amendment to include a new variable exclusion is dependent on the election carriers make with respect to use of the variable exclusion. To the extent a carrier does not elect to include the optional exclusion in any of the plans the carrier offers, the coverage will remain the same as it has been in the past and the economic impact to consumers buying plans from such carrier will be unchanged. To the extent a carrier elects to include the optional exclusion in one or more plans, consumers who wish to buy a plan containing the exclusion will have a modest positive economic impact since the consumer would not be charged premium for the excluded services.

Federal Standards Statement

State agencies that propose to adopt or amend State rules that exceed Federal standards regarding the same subject matter are required to include in the rulemaking document a Federal standards analysis. These proposed amendments are subject to Federal requirements addressing certain standards for health insurance contracts in PPACA. IHC Board does not believe the proposed amendments exceed the Federal standards. Consequently, the IHC Board does not believe a Federal standards analysis is required.

Jobs Impact

The IHC Board does not anticipate that any jobs will be generated or lost as a result of the proposed amendments, repeals, and new rules. Commenters may submit data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The IHC Board does not believe the proposed amendments will have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The IHC Board does not believe the proposed amendment applies to “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but acknowledges the possibility that one or more carriers might meet that definition. The proposed amendment does not establish new or additional reporting or recordkeeping requirements, but have the effect of establishing new compliance requirements, as described in the Summary above.

No differentiation in compliance requirements is provided based on business size. The requirements of and the goals to be achieved by the Federal law in question does not vary based on business size of a carrier, and the IHC Board would not be at liberty to make such a distinction even if the IHC Board were to consider such a distinction warranted. Accordingly, the proposed amendments, repeals, and new rules provide no differentiation in compliance requirements based on business size. No additional professional services would have to be employed in order to comply with the proposed amendments, repeals, and new rules.

Housing Affordability Impact Analysis

The IHC Board does not believe the proposed amendments, repeals, and new rules will have an impact on housing affordability in this State in that the proposed amendments, repeals, and new rules relate to the benefit levels and terms of standard health benefits plans offered in New Jersey for purchase by individuals.

Smart Growth Development Impact Analysis

The IHC Board does not believe the proposed amendment will have an impact on the number of housing units or the availability of affordable housing in the State, or that the proposed amendment will have an effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendment relates to the terms of standard health benefits plans offered in New Jersey.

Full text of the proposed amendment follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):