

INSURANCE

**DEPARTMENT OF BANKING AND INSURANCE**

**SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD**

**Small Employer Health Benefits Program Rules and Standard Plans**

**Adopted Amendments: N.J.A.C. 11:21 Appendix Exhibits F, G, K, W, Y, HH and II.**

Authorized By: New Jersey Small Employer Health Benefits Program, Ellen DeRosa, Executive

Director

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

Proposed: October 28, 2014

Adopted: November 19, 2014 by the New Jersey Small Employer Health Benefits Program Board, Ellen DeRosa, Executive Director

Filed: November 24, 2014 as R. 2014 d. \_\_\_\_ **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Effective Date: November 24, 2014

Operative Date: January 1, 2015

Expiration Date:

Summary of Hearing Officer Recommendations and Agency Responses:

The New Jersey Small Employer Health Benefits Program Board (SEH Board) held a hearing on Thursday November 13, 2014 at 11:00 A.M. at the Department of Banking and Insurance, 11<sup>th</sup> floor Conference Room, 20 West State Street, Trenton, New Jersey to receive testimony with respect to the standard health benefits plans, set forth in Exhibits F, G, W, Y, HH and II of the Appendix to N.J.A.C. 11:21 along with Exhibit K. Ellen DeRosa, Executive Director of the SEH Board, served as hearing officer.

No testimony was provided during the hearing. The hearing officer made no recommendations regarding the proposed amendments. The hearing record may be reviewed by

contacting Ellen DeRosa, Executive Director, New Jersey Small Employer Health Benefits Program Board, P.O. Box 325, Trenton, NJ 08625-0325.

### **Summary of Public Comments and Agency Responses**

The SEH Board received comments from Horizon Blue Cross Blue Shield of New Jersey and Autism New Jersey.

COMMENT 1: One Commenter referred to the SHOP regulation at 45 CFR 155.735(b)(2) that sets forth the requirement that an employer provide advance notice of a requested termination and the resultant termination dates determined by the timing of the notice. The Commenter asked that the timing of the notice and resultant termination be added as variable text to the Term of the Policy-Renewal Privilege – Termination provision.

RESPONSE: The SEH Board refers the commenter to the text in the Term of the Policy-Renewal Privilege – Termination provision that states: “For prospective termination requests, this Policy will end on the date requested.” The SEH Board believes this language is broad enough to address the notification requirements set forth in 45 CFR 155.735(b)(2). The SEH Board notes that employers that secure plans through the SHOP will be required to request termination through the SHOP and will be subject to the termination dates the SHOP dictates. No change is being made in response to this comment.

COMMENT 2: One Commenter suggested including language to the “When Dependent Coverage Starts” provision to address the coverage effective dates associated with the SHOP. The Commenter noted that the SHOP coverage effective dates are the first of the month, with exceptions made for birth and adoption, allowing immediate effective dates. The Commenter referred to the paragraph addressing enrollment of Initial Dependents.

RESPONSE: The SEH Board notes that the When Dependent Coverage Starts provision also addresses coverage of Newly Acquired Dependents. The effective date of coverage for such newly acquired dependents could also be the first of the month, if the plan is purchased through the SHOP. On adoption, the SEH Board is adding variable text to the paragraphs addressing Initial Dependents and Newly Acquired Dependents to accommodate SHOP coverage effective dates on the first of the month.

COMMENT 3: One Commenter noted that the Payment of Premium provision in the section addressing coverage for over-age dependents incorrectly refers to the Employee Open Enrollment Period as the Employee Annual Enrollment Period. The Commenter also noted that the effective date of coverage should be the group's anniversary date.

RESPONSE: The SEH Board thanks the Commenter for identifying the text that requires correction. The SEH Board is making the technical changes on adoption.

COMMENT 4: One Commenter noted that the term Carrier is used throughout the forms. The Commenter explained that the SHOP will be performing some of the functions of Carriers and requested that the standard plans be revised to allow the substitution of SHOP for the Carrier. As an example, the Commenter noted that employer requests for reinstatement must be made to the SHOP.

RESPONSE: The SEH Board understands that certain administrative functions generally handled by Carriers will be handled by the SHOP. The Carriers accept any decisions made by the SHOP and administer the plans according to those decisions. The SEH Board understands that the various SHOP requirements must be accepted by the Carriers as a condition of participation in the SHOP. The SEH Board disagrees that it is necessary or appropriate to refer

to the SHOP with respect to functions the SHOP performs that are subsequently communicated to the Carriers. No change is being made in response to this comment.

COMMENT 5: One Commenter expressed wholehearted support for the amendment to the benefits for behavioral intervention to eliminate the age 21 limit consistent with the Paul Wellstone and Pete Domenici Mental Health Parity Equity and Addiction Act of 2008. The Commenter said the “proposal reflects the state of the evidence which convincingly demonstrates both the medical necessity and benefit of behavioral intervention for adults with autism.” The Commenter also expressed support for the removal of the 30-visit limit for physical, occupational and speech therapies to treat autism.

RESPONSE: The SEH Board thanks the Commenter supporting the amendments as proposed.

### **Agency-Initiated Changes**

On adoption, the SEH Board is amending the exclusions provision in all of the standard plans to add brackets around the exclusion for telephone consultations. The brackets will allow carriers to continue to include the exclusion for telephone consultations or to omit the exclusion for telephone consultations.

### **Federal Standards Statement**

These adopted amendments address some of the same subject matter regulated by Federal law. Specifically, Federal law establishes standards with respect to health coverage offered to small employers, as well as eligibility standards that determine which employers are small employers for purposes of certain types of health coverage. However, these adopted amendments do not seek to exceed the standards established by Federal law, and thus, the SEH Board does not believe an analysis is required. Indeed, the adopted amendment to the definition of small employer in the plan forms will better align the definition with the Federal standard.

Further, the adopted amendment to the coverage of mammography services continues to be within the Essential Health Benefits (EHB) benchmark previously established for New Jersey for calendar years 2014 and 2015; the EHB benchmark includes coverage of screening and diagnostic mammography services consistent with Federal laws requiring coverage of services recommended by the United States Preventive Services Task Force and the comprehensive screening guidelines supported by the Health Resources and Services Administration of the U.S. Department of Health and Human Services (see, 42 U.S.C. 18022 and 42 U.S.C. 300gg-13, as well as 45 C.F.R. 147.130).

The adopted amendments satisfy the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity Equity and Addiction Act of 2008, and the final regulations at 29 C.F.R. 2590.712, 45 C.F.R. 146.136 and 45 C.F.R. 147.160, and do not exceed any of the requirements of this federal law.