State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
PO BOX 325
TRENTON, NJ 08625-0325

TEL (609) 292-7272

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

THOMAS B. CONSIDINE
Commissioner

BULLETIN NO. 11-03

TO: **ALL INSURANCE COMPANIES, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, HEALTH SERVICE CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS AUTHORIZED TO ISSUE HEALTH BENEFITS PLANS IN NEW JERSEY**

FROM: **THOMAS B. CONSIDINE, COMMISSIONER**

RE: **AUTHORIZATION/REIMBURSEMENT FOR MEDICAL SERVICES**

The Department has recently received a number of complaints regarding authorizations for medical services and reductions in claims paid following the receipt of authorizations. The Department is issuing this Bulletin to remind carriers of their obligations with respect to authorizations and provide further guidance as to some actions the Department considers to be prohibited by current law and regulation.

Services Provided in Reliance on an Authorization

N.J.A.C. 11:24-8.3(d) provides that an HMO shall not deny reimbursement retroactively for a covered service provided to a member by a provider who relied upon the written or oral authorization of the HMO or its agents prior to providing the service to the member, except in cases where there was material misrepresentation or fraud. N.J.A.C. 11:24A-3.4 2(e), which is applicable to all carriers using utilization management programs, provides that a carrier shall not deny reimbursement retroactively for a covered service provided to a covered person by a provider who relied upon the written or oral authorization of the carrier (or its agents) prior to providing the service to the covered person, except in cases where there is material misrepresentation or fraud. N.J.S.A. 17B:30-53 a.(1) similarly provides that when a hospital or physician requested authorization from a payer and received approval for the health care services delivered prior to rendering the services, no payer shall deny reimbursement for covered services rendered on grounds of medical necessity in the absence of fraud or misrepresentation.

Carriers may not circumvent these provisions through the use of "disclaimers" purporting to reserve the right to retroactively revise the utilization management determination.

If a service which has been authorized is delivered within any reasonable time limitations included in the authorization, the claim may not subsequently be denied, or reimbursement reduced, on the basis that the services were not medically necessary or that lesser services were medically appropriate unless there is fraud or misrepresentation.

In addition, if services have been authorized, but a health care provider provides less extensive or invasive services at the point of service due to the circumstances at the time, such providers may reasonably rely on the original authorization in providing such lesser services. Accordingly, carriers may

not deny or apply a penalty due to the lack of an authorization for the provision of less extensive or invasive services than those authorized.

February 28, 2011
Date

Thomas B. Considine, Commissioner

inoord/bbAuthorizations