



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. 12-02

TO: ALL NEW JERSEY HEALTH INSURANCE COMPANIES; HOSPITAL SERVICE CORPORATIONS; MEDICAL SERVICE CORPORATIONS; HEALTH SERVICE CORPORATIONS; HEALTH MAINTENANCE ORGANIZATIONS; ORGANIZED DELIVERY SYSTEMS; AND OTHER INTERESTED PARTIES

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: PROVISION OF NON-COVERED SERVICES BY LIMITED-PANEL NETWORK PHYSICIANS

It has come to the Department's attention that some mutually beneficial arrangements between patients and doctors have been hindered by guidance released in the past jointly by this Department and the Department of Health (prior to the transfer of the Managed Care Bureau to this Department). At the same time it continues to be of utmost importance to ensure that patients who choose to enter into a retainer arrangement with a network physician continue to receive the full benefit of their managed care plans and are not asked to pay extra for already covered services. This Bulletin clarifies in part and rescinds in part guidance included in DOBI/DHSS Bulletin 2003-02 issued August 8, 2003.

In-network physicians offering retainer services will not be considered a discriminatory practice provided all of the following safeguards are in place:

- Contracts between health plans and providers should provide that members cannot be charged amounts in excess of their cost-sharing under the plan for services covered under the plan. Retainer agreements requiring additional payments are only permissible with respect to services above and beyond the services already covered in the member's plan, and those additional services must be clearly

Visit us on the Web at www.njdobi.org

New Jersey is an Equal Opportunity Employer • Printed on Recycled Paper and Recyclable

described to members by the provider;

- Members should have an unfettered right to an adequate network of providers who have not limited their panels to patients buying additional services. Providers limiting their practices to patients buying additional services should not be counted by health plans for purposes of establishing network adequacy;
- Materials available to members that list network providers should not include limited practices without identifying them as such. This may be accomplished by either excluding the providers from the materials or indicating in the listing the limitation on the practice;
- Members already receiving services from a provider when the provider first begins to limit his or her practice to retainer medicine should have all of the rights of a patient whose provider drops out of the network. This includes the right to continuity of care for the periods described in N.J.A.C. 11:24A-4.8(d) or N.J.A.C. 11:24-3.5(c) as appropriate, without making any retainer payments.

The Department recognizes that the ability to provide an enhanced level of care may necessitate limiting the number of patients a provider can accept. Arrangements under which providers undertake to provide services above and beyond those covered under the member's health plan for additional payments will, therefore, not be considered to be discriminatory, even if the panel is closed to other patients, subject to the requirements described above.

This bulletin is not intended to require that insurers include such providers in their networks, but to describe the circumstances under which it would be permissible.



January 9, 2012
Date

Thomas B. Considine, Commissioner