



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE
SMALL EMPLOYER HEALTH BENEFITS PROGRAM
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ADVISORY BULLETIN 12-SEH-02

September 26, 2012

To: SEH Program Member Carriers that Issue Coverage
SEH Program Interested Parties

From: Ellen DeRosa
Executive Director

Re: Adopted Amendments to the Standard Plans to Comply with State and Federal Law

In August 2012 the Small Employer Health Benefits Program Board (SEH Board) proposed amendments to the standard health benefits plans to comply with State and Federal law. The SEH Board adopted the amendments during the Board meeting on September 19, 2012. The Notice of Adoption is expected to be published in the October 15, 2012 *New Jersey Register*.

Amended Forms

The text of the new forms is posted under the Latest News section on our website, http://www.state.nj.us/dobi/division_insurance/ihcseh/sehmain.htm.

In addition, information on proposals and adoptions can be found on our website at the following address:

http://www.state.nj.us/dobi/division_insurance/ihcseh/sehrulesadoptions.htm

Use of Compliance and Variability Rider

Given the nature and extent of the amendments to the standard plans the SEH Board determined that Carriers may use either the Compliance and Variability Rider to accomplish the current amendments or may issue the standard health benefits plans with the amended text included in the forms. Please note that the Compliance and Variability Rider may be used to amend inforce policies as well as to amend newly issued policies.

The SEH Board established a January 1, 2013 Operative Date for the adopted amendments. For inforce policies Carriers must issue the Compliance and Variability

Rider no later than January 1, 2013. For new policies Carriers must begin issuing the Compliance and Variability Rider with the policies or must issue policies that include the amended provisions no later than January 1, 2013.

Compliance and Variability Rider

The text to be included on the Compliance and Variability Rider is included at the end of this Advisory Bulletin.

As appropriate, the terms Policyholder and Policy may be replaced with Contractholder and Contract and the term Covered Person may be replaced with the term Member. In the introductory text to item III use “Covered Services and Supplies” for HMO coverage, “Covered Charges” for coverage under Plans B – E and “Covered Services and Supplies and Covered Charges” for coverage under an HMO-POS contract.

Compliance with Law

The SEH Board recognizes that the policy form language supporting provisions required by State and Federal law will be provided to the groups after the laws were effective. Since all of the standard SEH plans contain a Conformity with Law provision, Carriers must administer the plans consistent with the requirements of the law whether or not the policy form language is consistent with the law.

Questions?

If you have any questions please send them by email to ellen.derosa@dobi.state.nj.us.

TEXT TO INCLUDE ON THE COMPLIANCE AND VARIABILITY RIDER

I. The definition of Preventive Care is deleted and replaced with the following.

Preventive Care. As used in this Policy preventive care means:

- a) Evidence based items or services that are rated “A” or “B” in the current recommendations of the United States Preventive Services task Force with respect to the [Covered Person];
- b) Immunizations for routine use for Covered Persons of all ages as recommended by the Advisory Committee on Immunization Practices of the Centers of Disease Control and Prevention with respect to the [Covered Person];
- c) Evidence-informed preventive care and screenings for [Covered Persons] who are infants, children and adolescents, as included in the comprehensive guidelines supported by the Health Resources and Services Administration;
- d) Evidence-informed preventive care and screenings for female [Covered Persons] as included in the comprehensive guidelines supported by the Health Resources and Services Administration; and
- e) Any other evidence-based or evidence-informed items as determined by federal and/or state law.

Examples of preventive care include, but are not limited to: routine physical examinations, including related laboratory tests and x-rays, immunizations and vaccines, well baby care, pap smears, mammography, screening tests, bone density tests, colorectal cancer screening, and Nicotine Dependence Treatment.

[II. The following sentence is added to the Prescription Drugs provision. As explained in the **Orally Administered Anti-Cancer Prescription Drugs** provision below additional benefits for such prescription drugs may be payable.]

[Note: Include this item if consistent with the Carrier’s administration of the benefit.]

III. The following provision is added to the [Covered Services and Supplies [and] Covered Charges] section[s].

Orally Administered Anti-Cancer Prescription Drugs

As used in this provision, orally administered anti-cancer prescription drugs means Prescription Drugs that are used to slow or kill the growth of cancerous cells and are administered orally. Such anti-cancer Prescription Drugs does not include those that are prescribed to maintain red or white cell counts, those that treat nausea or those that are prescribed to support the anti-cancer prescription drugs. Any such Prescription Drugs are covered under the Prescription Drugs provision of the Policy.

[[Carrier] covers orally administered anti-cancer prescription drugs that are Medically Necessary and Appropriate as Network Services and Supplies if the Covered Person is receiving care and treatment from a Network Practitioner who writes the prescription for such Prescription Drugs. [Carrier] covers orally administered anti-cancer prescription drugs that are Medically Necessary and Appropriate as Non-Network Services and

Supplies if the Covered Person is receiving care and treatment from a Non-Network Practitioner who writes the prescription for such Prescription Drugs.]

[Anti-cancer prescription drugs are covered subject to the terms of the **Prescription Drugs** provision of the Policy as stated above. The Covered Person must pay the deductible and/or coinsurance required for Prescription Drugs. Using the receipt from the pharmacy, the Covered Person may then submit a claim for the anti-cancer prescription drug under this Orally Administered Anti-Cancer Prescription Drugs provision of the Policy. Upon receipt of such a claim [Carrier] will compare the coverage for the orally-administered anti-cancer prescription drugs as covered under the Prescription Drugs provision to the coverage the Policy would have provided if the Covered Person had received intravenously administered or injected anti cancer medications [from the Network or Non-Network Practitioner, as applicable] to determine which is more favorable to the Covered Person in terms of copayment, deductible and/or coinsurance. If the Policy provides different copayment, deductible or coinsurance for different places of service, the comparison shall be to the location for which the copayment deductible and coinsurance is more favorable to the Covered Person. If a Covered Person paid a deductible and/or coinsurance under the Prescription Drug provision that exceeds the copayment, deductible and/or coinsurance that would have applied for intravenously administered or injected anti cancer medications the Covered Person will be reimbursed for the difference.]

[Note: If a Carrier uses a different procedure to comply with the requirements of P.L. 2001, c.188 the Carrier should omit the above paragraph and insert text consistent with the Carrier's procedure.]