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.

Proposed: March 29, 2017

Adopted: April 20, 2017 by the New Jersey Individual Health Coverage Program Board, Ellen DeRosa, Executive Director

Filed: as R. 2017 d. ____ **without change**.

Effective Date: May 16, 2017

Operative Date: May 16, 2017

Expiration Date:

Summary of Hearing Officer Recommendations and Agency Responses:

The New Jersey Individual Health Coverage Program Board (IHC Board) held a hearing on Tuesday, April 11, 2017 at 1:30 P.M. at the Department of Banking and Insurance, 11th floor Conference Room, 20 West State Street, Trenton, New Jersey to receive testimony with respect to the proposed amendments to the standard health benefits plans, set forth in Exhibits A and B of the Appendix to N.J.A.C. 11:20. Ellen DeRosa, Executive Director of the IHC Board, served as hearing officer.

No persons came to 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 Individual Health Coverage Program Board, P.O. Box 325, Trenton, NJ 08625-0325.

Summary of Public Comments and Agency Responses:

The IHC Board accepted comments on the proposal through April 18, 2017 and received comments from the New Jersey Hospital Association.

COMMENT 1: The Commenter expressed support for the rule proposal and commended the IHC Board for its efforts.

RESPONSE: The IHC Board thanks the Commenter for the supportive comment.

COMMENT 2: The Commenter expressed concern with the requirement that a facility notify the carrier within 48 hours of the admission. The Commenter stated that while it is reasonable to provide notice within 48 hours with respect to scheduled admissions, such a requirement should not be applied to emergency admissions, which are different situations. With respect to emergency admissions the Commenter recommends that notice be given "within 48 hours or as soon thereafter as the exigencies of the situation allow."

RESPONSE: The IHC Board included the 48 hour notice requirement in the rule proposal to satisfy the requirements of P.L. 2017, c.28. As stated in section 6 addressing individual health benefits plans, "The facility shall notify the carrier of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment." Similar or identical text is included in each of sections one through ten. Since the law does not distinguish between scheduled and emergency admissions, the IHC Board's proposal did not distinguish between

these types of admissions. Carriers typically impose the emergency notice requirement on the covered person and require the covered person to notify the carrier of an emergency admission within 48 hours or as soon as reasonably possible. P.L. 2017, c. 28 gives responsibility for the notice of an admission to treat substance use disorder to the facility and states the notice must be provided within 48 hours. Unlike a covered person whose medical condition might make it impossible to provide notice within 48 hours, and thus notice may be provided as soon as reasonably possible, the law makes no similar accommodation with respect to the notice required of the facility. The IHC Board notes that it is important that carriers be notified of the admission and provided with the initial treatment plan as the law requires. No change is being made in response to this comment.

Federal Standards Statement

State agencies that 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. As discussed in the proposal summary, the amendments are intended to comply with newly enacted State law. The IHC Board acknowledges that benefits for the treatment of substance use disorder are included in the Federal Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), part of Public Law 110-343. The Board further acknowledges that the proposed amendments exceed the Federal requirements set forth in MHPAEA in that the restrictions on the use of utilization management as set forth in P.L. 2017, c. 28 require carriers to provide benefits for the treatment of substance use disorder that exceed the requirement of Federal law. While Federal law would allow the use of utilization management to the same extent as for other illness, taking into consideration the standards for the use of qualitative benefit limits, P.L. 2017, c. 28 does not permit such consideration. To the extent that the IHC Board must adopt

amendments to the standard policy forms that implement P.L. 2017, c. 28 the adopted amendments are not included in MHPAEA. As explained in the economic impact section of the proposal summary, the Board does not have the data necessary to quantify the economic impact in terms of benefits carriers will be required to pay or the resulting impact on premiums for coverage. Therefore the IHC Board is not in a position to include a cost-benefit analysis. The IHC Board notes that compliance with P.L. 2017, c. 28 and thus implementation of the adopted amendments can be achieved using current technology.