

## **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, Sandi Kelly, Chairperson.

Authority: N.J.S.A. 17B:27A-2 to -16.5

Calendar Reference: See Summary below for explanation of inapplicability of calendar requirement.

Proposal Number: PRN 2023-

As required by N.J.S.A. 17B:27A-16.1, interested parties may testify with respect to the standard health benefits plans set forth in N.J.A.C. 11:20 Appendix Exhibits A and B at a virtual **public hearing** via Zoom to be held on November 28, 2023 at 10 a.m. The meeting can be accessed at:

<https://www.zoomgov.com/j/1602355670?pwd=UURSTeh6NUIVOFp3aklCZ2txRGpQdz09>

Meeting ID: 160 235 5670

Passcode: 079432

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Submit comments by December 6, 2023 to:

New Jersey Individual Health Coverage Program Board  
PO Box 325  
Trenton, NJ 08625-0325  
E-mail: [ihcsehprograms@dobi.nj.gov](mailto:ihcsehprograms@dobi.nj.gov)

The agency proposal follows:

### **Summary**

The Individual Health Coverage (IHC) Program was established in accordance with P.L. 1992, c. 161. The IHC Program is administered through a Board of Directors (Board or IHC Board). The primary functions of the IHC Program and its Board are the creation of standard health benefits plans (standard plans) to be offered in the individual market in New Jersey and the regulation of the individual health coverage market. There are five standard plans, which have been established through rule, and are set forth in Exhibits A and B of the Appendix to N.J.A.C. 11:20 (standard plan documents). The rules for the IHC Program, along with Exhibit C, provide explanations of how certain variables in the standard plans may be used by carriers.

The IHC Board proposes the following amendments to the standard plans in Appendix Exhibits A and B.

To comply with P.L. 2023, c. 2, which permits pharmacists to furnish self-administered hormonal contraceptives, in accordance with protocols established by Board of Pharmacy and Board of Medical Examiners, the Board proposes amendments to the definition of “practitioner” used in the standard plan documents.

To comply with P.L. 2023, c. 8, which requires health insurance carriers to cover colorectal cancer screenings recommended by United States Preventive Services Task Force and eliminates cost-sharing requirements for certain colonoscopies, the Board proposes amendments throughout the standard plan documents, including updated language to the “Colorectal Cancer Screening Charges” provision.

In accordance with guidance released by the United States Centers for Medicare & Medicaid Services (CMS) in May 2023, the Board proposes amendments which state that in the absence of enrollment in other primary coverage, such as Medicare, a standard plan will not take that other coverage into account when paying for covered services or supplies. In addition, the Board proposes language mandating that a standard plan will not limit or exclude coverage based on eligibility for other coverage and that coordination of benefits occurs only when the Covered Person is enrolled in other coverage.

Consistent with the “Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2024,” the Board proposes an amendment that would permit a dependent child to stay on their insurance plan, instead of through the end of the month, through the end of the calendar year, that they become 26.

The Board proposes an amendment that would align Appendix Exhibit B with the language in Appendix Exhibit A in that the definition for the Special Enrollment Period is revised to remove “or standard health benefits plan with rider,” and to correct a typographical error.

### **IHC Rulemaking Procedures**

The IHC Board is proposing these amendments in accordance with the special action process established at N.J.S.A. 17B:27A-16.1, as an alternative to the common rulemaking process specified at N.J.S.A. 52:14B-1 et seq. Pursuant to N.J.S.A. 17B:27A-16.1, the IHC Board may

expedite adoption of certain actions, including modification of the IHC Program's health benefits plans and policy forms, if the IHC Board provides interested parties a minimum 20-day period during which to comment on the Board's intended action following notice of the intended action in three newspapers of general circulation, with instructions on how to obtain a detailed description of the intended action, and the time, place, and manner by which interested parties may present their views regarding the intended action. Concurrently, the IHC Board must forward notice of the intended action to the Office of Administrative Law (OAL) for publication in the New Jersey Register, although the comment period runs from the date the notice is submitted to the newspapers and OAL, not from the date of publication of the notice in the New Jersey Register. The IHC Board also sends notice of the intended action to affected trade and professional associations, carriers, and other interested persons who may request such notice. In addition, for intended modifications to the health benefits plans, the IHC Board must allow for testimony to be presented at a public hearing prior to adopting any such modifications. Subsequently, the IHC Board may adopt its intended action immediately upon the close of the specified comment period or close of a public hearing (whichever is later) by submitting the adopted action to the OAL for publication. The adopted action is effective upon the date of its submission to the OAL, or such later date as the Board may designate. If the Board does not respond to commenters as part of the notice of adoption, the Board will respond to the comments timely submitted within a reasonable period of time thereafter in a separately prepared report that will be submitted to OAL for publication in the New Jersey Register. Pursuant to N.J.S.A. 17B:27A-16.1, all actions adopted by the Board are subject to the requirements of this special rulemaking procedure notwithstanding the provisions of the Administrative Procedure Act. As a result, the quarterly calendar requirement set forth at N.J.A.C. 1:30-3.1 is not applicable when the Board uses its special rulemaking procedures.

Please note that since this procedure allows a 20-day comment period, it is likely the comment period will expire prior to publication of the notice of proposal in the New Jersey Register.

### **Social Impact**

The IHC Board anticipates that compliance with the newly enacted laws expanding definition of “practitioner” in the context of self-administered hormonal contraceptives, providing coverage for colorectal cancer screenings recommended by United States Preventive Services Task Force and eliminating cost-sharing requirements for certain colonoscopies have a positive social impact for those consumers who will benefit from the coverage the laws require. Further, the Board anticipates the updated language reflecting CMS’s recent guidance, which prohibits carriers from taking non-primary coverage into account when paying for covered services or supplies; limiting or excluding coverage based on eligibility for other coverage, and providing that coordination of benefits will only occur when the covered person is enrolled in other coverage, will have a positive social impact in that it will ensure all carriers are providing the appropriate covered supplies and services at the appropriate cost to consumers.

### **Economic Impact**

The IHC Board expects that the proposed amendments will provide a positive economic impact for consumers.

The IHC Board expects the coverage of colorectal cancer screenings, and the expanded definition of “practitioner” in the context of self-administered hormonal contraceptives will help facilitate affordable access to needed services, resulting in a positive economic impact.

In addition, clarifying standard plan documents to reflect CMS’s guidance prohibiting carriers from taking non-primary coverage into account when paying for covered services or

supplies; limiting or excluding coverage based on eligibility for other coverage, and providing that coordination of benefits will only occur when the covered person is enrolled in other coverage will have a positive economic impact for consumers, who will be better able to discern how their standard plan will pay for covered services or supplies and at what cost, while also ensuring coordination of benefits takes place only when the appropriate coverages are in place.

The proposed amendments will not incur any additional administrative, enforcement or oversight cost for implementing agencies.

### **Federal Standards Statement**

State agencies that propose to 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. The proposed amendments comply with the May 24, 2023 CMS guidance regarding Benefit Coordination and Medicare Eligibility and 45 C.F.R. 155.430(b)(3), and do not exceed those Federal standards. Accordingly, a Federal standards analysis is not required.

### **Jobs Impact**

The IHC Board does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

### **Agriculture Industry Impact**

The IHC Board does not believe the proposed amendments will have any impact on the agriculture industry in New Jersey.

### **Regulatory Flexibility Analysis**

The IHC Board believes the proposed amendments may apply to one or more carriers that are “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 to -21. The proposed amendments do not establish new or additional reporting or recordkeeping

requirements, but have the effect of establishing new compliance requirements, as described in the Summary above.

No differentiation in compliance requirements is provided based on business size. The requirements of, and the goals to be achieved by, the laws in question do not vary based on the business size of a carrier, and the IHC Board would not be at liberty to make such a distinction, even if the IHC Board were to consider such a distinction warranted. Accordingly, the proposed amendments provide no differentiation in compliance requirements based on business size. No additional professional services would have to be employed in order to comply with the proposed amendments.

### **Housing Affordability Impact Analysis**

The IHC Board does not believe the proposed amendments will have an impact on housing affordability in this State or evoke a change in the average costs of housing in this State because the proposed amendments relate to the terms of standard health benefits plans offered in New Jersey for purchase by individuals.

### **Smart Growth Development Impact Analysis**

The IHC Board does not believe the proposed amendments will have an impact on smart growth in the State or that the proposed amendments will have an effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to the terms of standard health benefits plans offered in New Jersey.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The IHC Board has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### APPENDIX

**OFFICE OF ADMINISTRATIVE LAW NOTE:** The New Jersey Individual Health Coverage Program Board is proposing amendments to N.J.A.C. 11:20 Appendix Exhibits A and B. Pursuant to N.J.S.A. 52:14B-7(c) and N.J.A.C. 1:30-5.2(a)2, the Exhibits as proposed are not published herein, but may be reviewed by contacting:

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PO Box 325  
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