

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 2024 -

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 December 9, 2024 at 10 AM. The meeting can be accessed at:

<https://www.zoomgov.com/j/1600805835?pwd=p8yPOYfwdfDNizmhcqyF1mXJVSaFC3.1>

Meeting ID: 160 080 5835

Passcode: 296112

One tap mobile

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Submit comments by December 17, 2024 to:

New Jersey Individual Health Coverage Program Board
PO Box 325
Trenton, NJ 08625-0325
Fax: 609-633-2030
E-mail: 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. 105, which places a flat cap on the out-of-pocket contribution for any covered person prescribed insulin, an epinephrine auto-injector device, or a prescription asthma inhaler across insurance carriers and mandates coverage for diabetes self-management education, the Board proposes amendments throughout the standard plan documents. The schedule pages for each standard plan have been amended to clearly state that insulin, prescription asthma inhalers and epinephrine auto-injector devices are not subject to any deductible and to specify that copayments cannot exceed the statutory maximum for insulin, prescription asthma inhalers and epinephrine auto-injector devices. The Board proposes the addition of a “Treatment of Diabetes” provision, which provides coverage for the expenses incurred for certain equipment and supplies

for the treatment of diabetes and the expenses incurred for diabetes self-management education. The Board proposes the inclusion of “blood glucose monitors and blood glucose monitors for the legally blind; test strips for glucose monitors and visual reading and urine testing strips; insulin; injection aids; cartridges for the legally blind; syringes; insulin pumps and appurtenances thereto; insulin infusion devices; and oral agents for controlling blood sugar” under the Non-Prescription Drugs provision consistent with P.L. 2023, c. 105, which provides coverage for equipment and supplies for the treatment of diabetes,.

To comply with P.L. 2023, c. 275, which updates coverage for hearing aids to one hearing aid for each hearing-impaired ear every 24 months and expands coverage to include charges for the cost of treatment related to cochlear implants, the Board proposes amendments to the “Hearing Aids” provision. In addition, the definition of durable medical equipment has been amended to remove references to hearing aids, as all medically necessary services incurred in the purchase of a hearing aid will be subject to the same deductible, coinsurance or copayments as a primary care visit, and are not considered durable medical equipment.

The Board proposes several housekeeping amendments including correcting formatting and spacing errors, removing references to outdated maximum out of pocket deductible amounts, and amending the definition of “telehealth” and “telemedicine” to remove references to P.L. 2017, c. 117 and replace them with references to N.J.S.A. 45:1-61 to -66, which is the accurate statutory citation. The Board is proposing to amend the definition of “inpatient services” to include a covered person’s home when admitted under the Hospital at Home Act, which permits a hospital to provide acute care services to an individual outside of the hospital’s licensed facility and within a private residence designated by the individual, consistent with P.L. 2023, c. 163.

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 updating the standard plan documents consistent with Chapter 105 will have a positive social impact as the proposed amendments reduce the financial burden for those covered person managing illnesses, e.g., diabetes, anaphylaxis, asthma, and chronic pulmonary obstructive disease, and ensure that covered persons have the appropriate notice of the prescription drugs, supplies and services needed to treat these conditions are available to them at a predictable cost.

The Board anticipates that updating the standard plan documents to be consistent with Chapter 275, which provides coverage for hearing aids and cochlear implants, will have a positive social impact on those covered persons who suffer from varying degrees of hearing loss, which can range from mild to profound. Providing coverage for one hearing aid for each hearing-impaired ear every 24 months will ensure that covered persons who need hearing aids have access to the latest technology when treating hearing loss while providing coverage of cochlear implants and related costs will provide treatment options for those covered persons experiencing sensorineural hearing loss. The updated standard plan documents will provide appropriate notice to covered persons of the benefits available to them.

For these reasons, the proposed amendments to the standard plan documents will have a positive social impact.

Economic Impact

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

The IHC Board expects the flat cap on the out-of-pocket contribution for any covered person prescribed insulin, an epinephrine auto-injector device, or a prescription asthma inhaler across insurance carriers and coverage for hearing aids and the cost of cochlear implants and related costs of treatment will have a positive economic impact on covered persons. The amendments to the standard plan documents limit out-of-pocket costs for covered persons managing chronic health issues and ensure the monthly cost of life-saving prescription medications remains predictable. Similarly, the amendment to the standard plan documents limits the financial burden of covered persons treating different types of hearing loss.

The proposed amendments will not incur any additional administrative, enforcement or oversight cost for the IHC Boards.

Accordingly, the benefits to be achieved far outweigh any minimal costs that may be imposed.

Federal Standards Statement

As discussed in the Summary above, the proposed amendments are intended to comply with newly enacted State law, and are not being proposed under the authority of, or in order to implement, comply with or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements as set forth at N.J.A.C. 1:30-5.1(c)4. Accordingly, no Federal Standards Analysis is required.

Jobs Impact

The IHC Board does not anticipate that any jobs will be generated or lost as a result of the proposed amendments, as the amendments relate to the terms of standard plan documents issued by carriers offering individual health insurance plans in this State. Commenters may submit data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of the notice of proposal.

Agriculture Industry Impact

The IHC Board does not believe the proposed amendments, which relate to the terms of standard plan documents issued by carriers offering individual health insurance plans in this State, 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:

New Jersey Individual Health Coverage Program
20 West State Street, 11th Floor
PO Box 325
Trenton, NJ 08625-0325
ihcsehprograms@dobi.nj.gov

or

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