INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

SMALL EMPLOYER HEALTH BENEFITS PROGRAM

Small Employer Health Benefits Program

Small Employer Health Benefit Plans

Adopted Amendments: N.J.A.C. 11:21-7.7A and N.J.A.C. 11:21 Appendix Exhibits F, G, W, Y, HH, and II

Authorized By: New Jersey Small Employer Health Benefits Program Board of Directors (Ellen DeRosa, Executive Director).

Authority: N.J.S.A. 17B:27A-17 et seq.

Proposed August 30, 2017.

Adopted: September 20, 2017 by the New Jersey Small Employer Health Benefits Program Board, Ellen DeRosa, Executive Director

Filed: _____, 2017 as R. 2017 d. ____ **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Effective Date:

Operative Date: September 20, 2017

Expiration Date:

Summary of Hearing Officer's Recommendations and Agency Responses:

The New Jersey Small Employer Health Benefits Program Board (SEH Board) held a hearing on Tuesday, September 12, 2017 at 9:00 A.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 F, G, W, Y, HH and II of the Appendix to N.J.A.C. 11:21. Ellen DeRosa, Executive Director of the SEH 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 Small Employer Health Benefits Program Board, P.O. Box 325, Trenton, NJ 08625-0325.

Summary of Public Comments and Agency Responses:

The SEH Board accepted comments on the proposal through September 19, 2017 and received no comments.

Summary of Agency-Initiated Changes

The SEH Board determined that the following amendments to N.J.A.C. 11:21 Appendix Exhibits F, G, W, Y, HH, and II are necessary to better align with the requirements of P.L. 2017, c. 117:

The specification of telemedicine and telehealth is not specifically illustrated on the schedule pages. Since telemedicine and telehealth are alternate means for a network practitioner to provide services, the cost sharing shown on the schedule for the applicable practitioner services applies to the telehealth or telemedicine services and it is unnecessary to include specific cost sharing for telemedicine or telehealth services. However, if a carrier elects to apply different cost sharing for certain telemedicine or telehealth services, such as those provided through a telemedicine or telehealth vendor, where the different cost sharing is less than or equal to the cost sharing for an in-person visit, the carrier may specifically list those telemedicine and telehealth services on the schedule with the applicable cost sharing requirement.

The variable brackets around the definitions of telehealth and telemedicine have been removed. The SEH Board determined that the definitions must always be included to address situations in which network practitioners provide services via telemedicine or telehealth.

The variable brackets for the telehealth and telemedicine provision have been removed and the text has been clarified to explain that telehealth and telemedicine are covered charges if a network practitioner provides medically necessary services using telehealth or telemedicine. The SEH Board recognizes that network practitioners may or may not provide services using telehealth or telemedicine. To the extent a covered person uses a network practitioner that does provide services using telehealth or telemedicine consistent with the requirements of P.L. 2017, c. 117, the telehealth or telemedicine visit is covered.

The variable brackets in the telephone consultations exclusion have been adjusted so the exclusion is either used or not used, and if it is used, there is an exception for telehealth and telemedicine.

Upon further review of the requirements of 45 CFR 155.420(d), the SEH Board noted that the triggering event associated with an NJ FamilyCare determination of ineligibility applies only if that determination is made after the open enrollment period or special enrollment period ends. On adoption, the SEH Board is amending item 6 of N.J.A.C. 11:21-7.7A(b) as well as the triggering event definition in N.J.A.C. 11:21 Appendix Exhibits F, G, W, Y, HH, and II to include the qualification that the determination is made after the open enrollment period or special enrollment period ends.

Federal Standards Analysis

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. As discussed in the Summary, some of the proposed amendments are intended to comply with Federal law, 45 CFR 155.420(d). The adopted amendments do not exceed the

requirements of 45 CFR 155.420(d). Consequently, the SEH Board does not believe a Federal standards analysis is required.

11:21-7.7A Special enrollment period

(a) (No change).

(b) Triggering events are:

1 – 5 (No change)

6. The date NJFamilyCare determines an employee or dependent who submitted an application during the open enrollment period or during a special enrollment period is ineligible **if that determination is made after the open enrollment period or special enrollment period ends**;

7 – 9 (No change)

(c) – (e) (No change)