

BULLETIN

OMC 2001-02

TO: All Carriers Subject to the Health Care Quality Act, P.L. 1997, c. 192 (generally codified as N.J.S.A. 26:2S-1 et seq.)

FROM: Marilyn Dahl, Senior Assistant Commissioner, New Jersey State Department of Health and Senior Services

DATE: February 28, 2001

RE: Binding Independent Health Care Appeals Program Decisions

N.J.S.A. 26:2S-11 established the Independent Health Care Appeals Program ("IHCAP"), to which certain individuals may present a decision by a carrier to deny, reduce or terminate a benefit otherwise provided for under a health benefits plan to the IHCAP for review (N.J.S.A. 26:2S-11a). From its inception, the decisions issuing from the IHCAP¹ have been recommendations, which the carrier could elect to accept or reject, in whole or in part (N.J.S.A. 26:2S-12c).

On January 16, 2001, P.L. 2001, c. 1, was enacted, amending N.J.S.A. 26:2S-12c. Specifically, P.L. 2001, c. 1 states that the decision rendered through the IHCAP shall be binding upon a carrier. Further, the amendment made by P.L. 2001, c. 1 states that a carrier must provide coverage promptly for services determined to be medically necessary, if any. Pursuant to P.L. 2001, c. 1, the amendments to N.J.S.A. 26:2S-12c were effective immediately upon enactment.

The Department of Health and Senior Services ("Department") has instructed the independent utilization review organizations contracted to provide services for the IHCAP that, for appeals received by the Department on and after January 16, 2001, the decisions rendered through the IHCAP are binding decisions, while all decisions rendered through the IHCAP for appeals received by the Department prior to January 16, 2001 continue to be recommendations only. Carriers are on notice of the Department's instructions as well, by way of this bulletin.

Accordingly, carriers shall comply promptly with the decisions rendered through the IHCAP for appeals received at the Department on and after January 16, 2001. Carriers maintain the option of whether to accept or reject, in whole or in part, recommendations rendered through the IHCAP for appeals received at the Department prior to January 16, 2001.² The written decisions rendered through the IHCAP will specify whether the decision is binding.

In regard to appeals received at the Department prior to January 16, 2001, carriers remain obligated to promptly notify the covered person and the Department about what action the carrier will take with respect to recommendations rendered through the IHCAP on the

¹ The Department of Health and Senior Services contracts with multiple independent utilization review organizations to review and render opinions regarding appeals.

² The terms of A99-146 (In the Matter of the Acquisition of Control of Prudential Health Care Plan, Inc., by Aetna, Inc.), continue to apply.

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appeals. Accordingly, carriers shall comply with N.J.A.C. 8:38-8.7(k), or N.J.A.C. 8:38A-3.7, as appropriate, with respect to appeals received at the Department prior to January 16, 2001.

In regard to appeals received at the Department on and after January 16, 2001, carriers should comply with N.J.A.C. 8:38-8.7(k) or N.J.A.C. 8:38A-3.7, as appropriate, by submitting a report setting forth the carrier's intent to comply with the decision of the IHCAP, how the carrier intends to comply, and an approximation of when the carrier expects compliance to be achieved. The Department recognizes that a statement of when compliance is anticipated to be achieved can not be ironclad in all circumstances; however, the Department expects statements to be made in good faith. Carriers should be able to provide documentation demonstrating that they have complied with the decision rendered through the IHCAP if such documentation subsequently is requested.

P.L. 2001, c. 1 made no other amendments to N.J.S.A. 26:2S-1 et seq.

Questions should be directed to Sylvia Allen-Ware, Acting Director, Office of Managed Care. Questions may be submitted in writing at: New Jersey Department of Health and Senior Services, P.O. Box 360, Trenton, NJ 08625-0360, or sallenware@doh.state.nj.us, or by calling 609-633-0660.