



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

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BULLETIN OMC 2005-01

TO: All Carriers subject to the Health Care Quality Act and offering a Health Benefits Plan that is a Managed Care Plan

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

DATE: February 2, 2005

RE: Compliance with newly-adopted N.J.A.C. 8:38C-2 and 3

The Department of Health and Senior Services (Department) adopted new rules at N.J.A.C. 8:38C-2 and 3, implementing the provisions of L. 2000, c. 121, codified at N.J.S.A. 26:2S-10.1 through 10.3. The new rules became effective December 6, 2004 (see 36 *New Jersey Register* 5337(b)).

N.J.A.C. 8:38C-2 implements and interprets the provisions of N.J.S.A. 26:2S-10.1. N.J.A.C. 8:38C-2 sets forth standards and procedures for designating licensed health care providers that are eligible to contract with carriers offering health benefits plans that are managed care plans (carriers) for the delivery of services for the home treatment of bleeding episodes associated with hemophilia (hemophilia home services), as well as procedures and standards in the event that designation is given up, withdrawn or lapses. N.J.A.C. 8:38C-3 implements certain aspects of N.J.S.A. 26:2S-10.1 setting forth certain obligations that carriers have to meet with respect to contracting for hemophilia home services. In addition, N.J.A.C. 8:38C-3 implements and interprets N.J.S.A. 26:2S-10.2, among other things, clarifying that federally-funded hemophilia treatment centers are State-designated outpatient regional hemophilia care centers.

N.J.A.C. 8:38C-2.4 requires health care providers interested in designation for hemophilia home services to submit their application on or before February 4, 2005.¹ N.J.A.C. 8:38C-2.14 specifies that health care providers included in Bulletin OMC 2001-04² (Bulletin providers) will continue to be considered "acceptable" if they file applications for designation as a hemophilia home services health care provider, until such time as their applications are disapproved. Similar language is set forth at N.J.A.C. 8:38C-3.8. It has come to the Department's attention that some interested parties have interpreted N.J.A.C. 8:38C-2.14 (and/or N.J.A.C. 8:38C-3.8) to mean that the Bulletin providers are

¹ Subsequently, applications will be accepted for review during the month of September annually, including September of 2005.

² Bulletin OMC 2001-04, dated August 4, 2001, set forth a list of health care providers and hemophilia treatment centers that the Department believed met the requirements of N.J.S.A. 26:2S-10.1 and 10.2 on a preliminary basis. Both lists were developed following consultation with the Hemophilia Association of New Jersey. Bulletin OMC 2001-04 was offered as guidance for carriers, but no penalties accrued as a result of a carrier's election not to conform to Bulletin OMC 2001-04.

currently designated, and are the only health care providers that carriers may authorize a covered person to obtain services from on an in-network basis following February 4, 2005 (assuming a Bulletin provider files its application promptly). However, this is not correct. The rules do not state that the Bulletin providers are designated; indeed, Bulletin providers must submit an application just like any other health care provider in order to become designated. Furthermore, the rules do not state that Bulletin providers are the only health care providers with which carriers may continue to do business related to hemophilia home services pending generation of a list of designees.

The Department is aware that it is impossible for carriers to contract with designated health care providers when there are no designated health care providers to contract with. It is not the Department's intent to penalize a carrier for doing business related to hemophilia home services with an undesignated health care provider (participating or nonparticipating) before a list of designees has been generated. See, N.J.A.C. 8:38C-3.10. Similarly, it is not the Department's intent that a carrier refuse to provide its covered persons with in-network benefits pending generation of a designee list for hemophilia home services. Indeed, N.J.A.C. 8:38C-3.4(f) makes it clear that covered persons should not be penalized because of an inability of the carrier to contract with a designated health care provider. Rather, while there is no list, a carrier should be authorizing the delivery of hemophilia home health services from any appropriate health care provider selected by the member, including making in-plan exceptions, if necessary. If a carrier currently has such health care providers in-network, the carrier may continue to encourage the member to use the participating health care providers, but if a carrier is to comply with N.J.A.C. 8:38C-3.4(f), the carrier cannot force the member to remain with the in-network health care providers in order to obtain in-network benefits during this period of time.

The Department will send out a notice to carriers when a list of designees has been generated, and the date on which the Department intends to begin enforcing penalties against carriers for failing to have participating designated health care providers available. The Department will provide a brief grace period following generation of the designee list during which those carriers that fail to have an existing contract with a designated health care provider may negotiate with designees. The Department anticipates completing the review and designation process by early April; however, the timeframe for generating a list of designees is uncertain, and will depend upon the quantity and quality of the applications received, and the responsiveness of applicants to questions the Department may have about the applications.

In the meantime, carriers should be compiling their own list of their current participating health care providers authorized under the terms of the agreement to provide hemophilia home treatment services, and submit that list to the Department on or before February 4, 2005, pursuant to N.J.A.C. 8:38C-3.9 (however, the Department will continue to accept the information until February 14). This is to help the Department better understand the field of potentially-affected health care providers. The Department will compare these lists with the list of applicants seeking designation. If there is a substantial difference in the lists, the Department may issue another notice to carriers, identifying the list of applicants, so that carriers may begin anticipatory work as may be necessary for the carrier to come into compliance. It should be noted that there is no regulatory obligation upon any carrier to terminate a contract with any health care provider solely because the health care provider does not become designated for hemophilia home services.

Questions regarding this bulletin may be referred to Sylvia Allen-Ware, Director, Office of Managed Care, by mail at: Department of Health and Senior Services, P.O. Box 360, Trenton, NJ 08625-0360; by facsimile at: (609) 633-0807; by email at: Sylvia.Allen-Ware@doh.state.nj.us; or, by phone at: (609) 633-0660.