



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

PO Box 325

TRENTON, NJ 08625-0325

TEL (609) 292-7272

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

THOMAS B. CONSIDINE
Commissioner

BULLETIN No. 10-22

TO: ALL NEW JERSEY AUTOMOBILE INSURERS

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: ADOPTED AMENDMENTS TO N.J.A.C. 11:3-4.4,
PERSONAL INJURY PROTECTION BENEFITS

The purpose of this Bulletin is to clarify the intent of the Department of Banking and Insurance ("Department") as it relates to its recently adopted amendments to N.J.A.C. 11:3-4.2, 4.4, 4.7, 4.8, 5.4, 5.10 and 5.11, Personal Injury Protection Benefits; Medical Protocols; Diagnostic Tests; Personal Injury Protection Dispute Resolution, which became effective July 6, 2010.

As adopted, N.J.A.C. 11:3-4.4(d) permits automobile insurers to file policy language waiving co-payments and deductibles when an insured receives medical treatment from a provider who is part of an Organized Delivery System ("ODS") that has contracted with the insurer or its PIP vendor. However, as was noted in several comments submitted on the notice of the proposed amendments, many insurers contract with managed care entities similar in function to ODSs. These entities provide or arrange for the provision of health care services and include health maintenance organizations (HMOs), selective contracting arrangements and worker's compensation managed care organizations. The commenters noted that these managed care entities are regulated by the Department in the same way as an ODS. The commenters believed that it was consistent with the intent of the proposal to provide for the waiving of deductibles and copayments for PIP insureds who obtain services from these managed care entities as well. In the Notice of Adoption of these amendments, the Department responded to these comments by indicating that it agreed that it might be appropriate to expand the entities to which the discount applies. However, the changes requested by the commenters would constitute substantive changes requiring additional notice and public comment. Consequently, they could not be made upon adoption of the amendments as originally proposed. The Department indicated it would review the implementation of the procedure and decide whether the additions requested by the commenters are appropriate at a future date.
(<http://www.state.nj.us/dobi/proposed/ad100706b.pdf>)

The Department has now reviewed the suggestions in these comments and determined that it would be appropriate to permit insurers to offer the waiver of deductibles and copayments based upon the use of providers in networks maintained by entities other than ODSs that have contracted with an insurer or its PIP vendor to provide health care services. The Department intends to propose amendments to the rule to permit this in the near future.

In order to permit insureds to benefit from the savings permitted by the amendments to the rule and consistent with the Common Sense Principles for rulemaking set forth in Executive Order 2, issued by Governor Christie on January 20, 2010, the Department will, prior to the adoption of rule amendments permit insurers to make the filing permitted by N.J.A.C. 11:3-4.4(d) when they or their PIP vendors have contracted with a health maintenance organization licensed pursuant to N.J.S.A. 26:2J-1 et seq., a selective contracting arrangement with a health benefits plan approved by the Department pursuant to N.J.A.C. 11:4-37 and 11:24A-4.10 or a workers' compensation managed care organization pursuant to N.J.A.C. 11:6.

Any filing that is made pursuant to N.J.A.C. 11:3-4.4(d) for a provider network that is not part of an ODS must reference a provider network that has been licensed or approved by the Department, as applicable, and, as such, has demonstrated its compliance with the network adequacy standards applicable to such provider networks.

Questions about this Bulletin can be addressed to Jean Bickal, 609-292-0844, ex 50023, jean.bickal@dobi.state.nj.us).

August 27, 2010
Date



Thomas B. Considine
Commissioner

DHT10-04/INOORD