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BULLETIN NO. 22-08

**TO: ALL NEW JERSEY HEALTH INSURANCE COMPANIES; HEALTH SERVICE CORPORATIONS; HEALTH MAINTENANCE ORGANIZATIONS; DENTAL SERVICE CORPORATIONS; DENTAL PLAN ORGANIZATIONS; AND OTHER INTERESTED PARTIES**

**FROM: JUSTIN ZIMMERMAN, ACTING COMMISSIONER**

**RE: SPECIAL ENROLLMENT PERIOD FOR CONSUMERS AFFECTED BY MYBENEFYTT TECHNOLOGIES SETTLEMENT WITH THE FEDERAL TRADE COMMISSION**

Pursuant to P.L.2019, c.141, codified at N.J.S.A. 17B:27A-57 to -59, the Department of Banking and Insurance (“Department”) created New Jersey’s State-based Exchange, Get Covered New Jersey, which is New Jersey’s official health insurance Marketplace, where individuals and families can easily shop for and buy coverage. In addition to operating New Jersey’s health insurance Marketplace, the Department is authorized to coordinate the operations of Get Covered New Jersey with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, as the Commissioner of the Department (“Commissioner”) deems appropriate. This law also authorizes the Commissioner to require that plans offered through Get Covered New Jersey conform with standardized plan designs that provide for standardized cost-sharing for covered health services. See N.J.S.A. 17B:27A-58(c).

Federal regulations set forth a range of circumstances in which Qualified Health Plans (“QHPs”), offered through the Exchange, must permit qualified individuals, as well as qualified employees and dependents, to receive special enrollment periods (“SEPs”) to enroll in the Individual Exchange or Small Business Health Options Program (“SHOP”) marketplaces outside the Open Enrollment Period. 45 CFR §§ 155.420(d), 155.725 (j), and 155.726(c). These federal rules also permit Exchanges to define “exceptional circumstances” for SEPs. See 45 C.F.R. §§ 155.420(d)(9), 155.725(j), and 155.726(c). The federal guidance associated with these regulations advises that States may establish additional SEPs to supplement those described in the regulations as long as the SEPs are more consumer protective than those contained in the regulations and

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otherwise comply with applicable laws and regulations. See Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016 80 Fed. Reg. 10750, 10798 (Feb. 27, 2015).

The purpose of this Bulletin is to advise carriers and other interested parties that the Department has identified a situation where an “exceptional circumstances” SEP is necessary. The Federal Trade Commission (“FTC”) recently found that consumers seeking individual coverage were being sold inferior health insurance products through high-pressure, deceptive practices of Benefytt Technologies, which also bundled/added unneeded coverages and made it difficult for consumers to cancel. See: <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-action-against-benefytt-results-100-million-refunds-consumers-tricked-sham-health-plans-charged>. The FTC found that consumers paid for “Choice Advantage STM Insurance” and other products purchased from “United States Fire Insurance Company,” were billed for these products by Benefytt or MyBenefitsKeeper, and these policies did not provide necessary coverage. The FTC is requiring Benefytt to send a letter to each affected consumer to advise of these deceptive practices and of a special enrollment period. Therefore, the Department will implement a temporary 66-day SEP that will be available for individuals and their dependents to enroll in an individual QHP, on or off the marketplace, if the individual is notified by Benefytt (email or mail) or if the consumer was a current or recent Benefytt health insurance customer even if they did not receive the FTC-mandated notice. The triggering event for this SEP is the date of this bulletin, which follows the completion of notices being sent to impacted individuals by Benefytt starting September 6, 2022 pursuant to the FTC settlement. The effective date of coverage is, at the option of the consumer, September 1<sup>st</sup> or the first of the month following the date of plan selection. When an individual enrolls dependents through this SEP, the dependents receive the same effective date selected by the individual.

The Department is making all necessary operational and programmatic changes to make this SEP available September 16, 2022, through November 21, 2022 and is directing health plans to do the same.

Should you have any questions regarding the content of this Bulletin, please contact the Department’s Office of Regulatory Affairs at [legsregs@dobi.nj.gov](mailto:legsregs@dobi.nj.gov).

Date 09/16/2022



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Justin Zimmerman  
Acting Commissioner