



The State of New Hampshire
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Roger A. Seigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

BULLETIN

Docket Number: INS 05-020-AB

TO: All New Hampshire Licensed Health Insurance Companies,
Health Maintenance Organizations, Fraternal Benefit Societies
and Third-Party Administrators

FROM: Roger A. Seigny

A handwritten signature in black ink, appearing to read "RAS", positioned to the right of the "FROM:" field.

DATE: June 29, 2005

RE: Cost Containment Guidelines

Provisions appearing in health insurance policies that can be described as “cost containment provisions” will be considered unjust, unfair, inequitable, misleading, deceptive unless they conform to or are administered in a manner that is consistent with the guidelines stated below. Provisions that do not comply with these guidelines or that are not administered as required by these guidelines will be disapproved by the Commissioner under the authority of RSA 415:2.

All health insurance policies are subject to these guidelines. The following examples of cost containment policy provisions are subject to these guidelines: provisions requiring prior authorization as a condition for benefits for hospital admissions or diagnostic imaging services; provisions requiring mandatory second opinions for elective surgery; provisions requiring that certain surgical procedures be performed on an out-patient basis; provisions limiting benefits for non-emergency Friday and Saturday hospital admissions; and provisions that provide for a reduction in benefits payable if the insured or physician fails to follow required procedures.

The Guidelines are as follows:

- (1) If a provision provides for a reduction in benefits due to the failure of the insured or the insured’s physician to follow required procedures or obtain any necessary authorization, the reduction in benefits or penalty may not be more than 50% of

- the benefit that would have otherwise been payable, or \$1,000.00, whichever is less. With respect to a provision that requires authorization from the insurer prior to a hospital admission, the insurer may, in lieu of a percentage reduction, state that either the benefits payable or eligible charges will be reduced or denied up to a specified dollar amount. In no event shall a policy provision provide for a reduction in benefits or penalty that is greater than \$1,000.00.
- (2) A provision that requires pre-admission authorization from the insurer may be applied to an emergency admission. However, in the case of an emergency admission, the insured must be allowed 48 hours following the admission within which to request authorization for the admission.
 - (3) Provisions requiring mandatory second surgical opinions shall comply with the following conditions:
 - (a) The provision must include a list of the surgical procedures to which the requirements apply.
 - (b) The second opinion must be obtained by a board certified specialist.
 - (c) The second surgical opinion consultant must agree not to treat or perform surgery on those for whom they render second or third opinions.
 - (d) Benefits are to be provided for third surgical opinions obtained by any insured person after that person receives a non-confirming second opinion.
 - (e) The insurer must waive the mandatory second surgical opinion requirement in the event a person is unable to obtain an appointment for a second opinion.
 - (4) A provision requiring an insured to have certain minor or elective surgical procedures performed at a physician's office, free-standing surgical facility or outpatient department of a hospital must include a list of the surgical procedures subject to this requirement.
 - (5) Procedures must be available to obtain an exception to the requirement that a surgical procedure be done on an outpatient basis in those cases where the patient's medical history or other conditions dictate the advisability of having the surgery performed on an inpatient basis.
 - (6) Insurers including cost containment provisions in health insurance policies must establish a mechanism for appeal or forgiveness due to non-compliance with the provision resulting from extenuating circumstances.
 - (7) Except for those conditions which are required by these guidelines to appear in the cost containment provisions, such as a list of procedures for which a second opinion is to be obtained, an insurer seeking the Department's approval for a cost containment provision shall provide the Department with written confirmation that the guidelines appearing in this bulletin will be adhered to in the administration of such provision.
 - (8) Insurers utilizing cost containment provisions in health insurance policies shall inform their insureds of the provisions through affirmative actions to ensure that their insureds are aware of these provisions.

Questions regarding any of the above guidelines may be referred to maureen.hartsmith@ins.nh.gov of the Life, Accident and Health Insurance Division of the New Hampshire Insurance Department.