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BULLETIN
Docket No.: INS-15-013-AB

TO: QHP Issuers offering Individual Market Health Plans on the New Hampshire Marketplace

FROM: Roger A. Seigny
Insurance Commissioner



DATE: April 9, 2015

RE: Continuity of Care Issuer Bulletin

I. Introduction

Senate Bill 413 passed in 2014, creating the New Hampshire Health Protection Program. As part of that program, eligible low-income adults will select Qualified Health Plans sold on the New Hampshire Marketplace beginning November 1, 2015 for coverage beginning on or after January 1, 2016. Under a Section 1115 Research and Demonstration Waiver approved by CMS on March 4, 2015, that coverage will be purchased on their behalf by the Medicaid program, through the marketplace Premium Assistance Program (PAP).¹

The purpose of this Bulletin is to detail certain provisions QHP issuers must comply with in order to offer coverage on the New Hampshire Marketplace once the PAP begins.

II. Legal Authority

The New Hampshire Insurance Commissioner “is charged with the rights, powers, and duties pertaining to the enforcement and execution of the insurance laws” of New Hampshire. NH RSA 400-A:3. The Commissioner has general rulemaking and enforcement authority with respect to regulation of the business of insurance in New Hampshire. NH RSA 400-A:15 and 16.

¹ Link to approved waiver: http://www.dhhs.state.nh.us/pap-1115-waiver/documents/pa_termsandconditions.pdf

RSA 126-A:5, XXV(g), enacted by Senate Bill 413, maintains the existing and traditional regulatory authority of the New Hampshire Insurance Department under Title XXXVII with respect to private health insurance coverage in which people are enrolled under the PAP. Specifically, the statute provides that, “in developing the program under this paragraph including drafting any necessary plan amendments or waiver requests, the commissioner [of Health and Human Services] shall consult with the New Hampshire insurance department as necessary to ensure that each program is designed to operate seamlessly with private insurance coverage and is consistent with all applicable insurance regulatory standards.” This Bulletin provides guidance regarding certain requirements contained in Senate Bill 413 as well as in the approved 1115 Premium Assistance Waiver.

The New Hampshire Department of Health and Human Services (DHHS) may also institute provisions specific to this program via guidance or agreement with issuers. The New Hampshire Insurance Department expects that QHP issuers will also comply with those provisions.

III. Participation in the New Hampshire Health Protection Program

RSA 126-A:5, XXV(a) provides that adults eligible for the New Hampshire Health Protection Program (NHHPP) who are ineligible for the Health Insurance Premium Payment program shall choose from any qualified health plans offered on the New Hampshire Marketplace if cost-effective. As such, issuers offering QHPs on the NH Marketplace in 2016 must accept NHHPP participants as enrollees. Additionally, pursuant to RSA 126-A:5, XXV(e), a determination of eligibility for the NHHPP marketplace PAP shall be a qualifying event under the Health Insurance Portability and Accountability Act of 1996. New NHHPP enrollees may enroll in QHPs via special enrollment periods throughout the year.

IV. Plans

[The 1115 Premium Assistance Waiver](#) authorizes the utilization of existing high-level silver plans with standard cost-sharing to provide health insurance coverage to the NHHPP eligible population that meets the requirements of RSA 126-A:5, XXV(b). As such, issuers must offer at least one 94% AV high silver plan that conforms with the [standard cost-sharing design](#) developed for the NHHPP by New Hampshire DHHS for each unique combination of product type and network used in a silver-level QHP.² Issuers are encouraged to reference the [Standard Benefit Categories Plans and Benefits Template \(PBT\)](#) outlining the standard cost-sharing in more detail as they create plans that may be made available to NHHPP beneficiaries. Issuers shall use a unique identifier in SERFF to distinguish the plan from issuers’ other cost sharing variation plan filings. To promote continuity of care, as also required by RSA 126-A:5, XXV(b), and pursuant to federal guaranteed issue requirements (see 42 U.S.C. 300gg-1), these standard cost-sharing plans must also be available to those individuals who purchase QHPs on the New Hampshire Marketplace and are eligible for 94% silver plan variations via cost-sharing reductions. The zero cost sharing plan will also be used by NHHPP for those eligible.

² Link to standardized cost-sharing parameters: <http://www.dhhs.state.nh.us/pap-1115-waiver/documents/premiumassistancerevisedcost-sharingdesign.pdf>

The 94% plan and zero cost sharing plan for eligible NHHPP enrollees will have the same HIOS ID as the standard plan but with the variant of -36 and -32 respectively; these variants are for form filings identification and should not be included in the binder templates.

Furthermore, issuers must create a separate schedule of benefits (SOB) for the 94% standard cost sharing plan for the NHHPP enrollees. This SOB will be identical to the corresponding 94% marketplace plan except in deductible and maximum out of pocket (MOOP), since the state is responsible for paying the deductible for these enrollees. The -36 variant SOB will show a \$0 deductible and a \$600 MOOP; whereas the corresponding -06 variant will show a \$325 deductible and a \$925 MOOP. Please see Appendix IV of the New Hampshire Insurance Department April 9, 2015 Bulletin INS-15-012-AB for a visual explanation.

V. Federally-Qualified Health Centers

RSA 415:25 requires that each QHP on the New Hampshire Marketplace: “(1) offer to each federally-qualified health center, as defined in section 1905(l)(2)(B) of the Social Security Act, 42 U.S.C. section 1396d(l)(2)(B), providing services in geographic areas served by the plan, the opportunity to contract with such plan to provide to the plan’s enrollees all ambulatory services³ that are covered by the plan that the center offers to provide; and (2) reimburse each such center for such services as provided in section 1302(g) of the Patient Protection and Affordable Care Act, Public Law 111-148, as added by section 10104(b)(2) of such Act.”

VI. Provider Directory

In accordance with both state and federal guidance, issuers are required to have a provider directory for each plan offered by an issuer. The [2016 Letter to Issuers in the FFM](#) and the 2016 Benefit and Payment Parameter regulations⁴ require that QHP issuers “must publish an up-to-date, accurate, and complete provider directory, including information on which providers are accepting new patients, the provider’s location, contact information, specialty, medical group, and any institutional affiliations...” Issuers must update the directory information at least monthly and make the directory easily accessible by enabling the general public to view all of the current providers for a plan on the plan’s public website through a clearly identifiable link or tab without having to create or access an account or enter a policy number. “The general public should be able to easily discern which providers participate in which plan(s) and provider network(s). Further, if the health plan issuer maintains multiple provider networks, the plan(s) and provider network(s) associated with each provider, including the tier in which the provider is included, should be clearly identified on the website and in the provider directory.”⁵

For more detailed information about the provider directory standards with which QHP issuers must comply, please re-read the New Hampshire Insurance Department April 9, 2015 Bulletin

³ For the purposes of this provision, “ambulatory services” are defined as health care services provided on an outpatient basis.

⁴ <https://www.federalregister.gov/articles/2015/02/27/2015-03751/benefit-and-payment-parameters-patient-protection-and-affordable-care-act>

⁵ http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2016_Letter_to_Issuers_2_20_2015.pdf#page=24

INS-15-012-AB and the September 25, 2014 Bulletin [INS-14-025-AB](#).

VII. Formulary Information

In accordance with NH RSA 420-J:7-b, issuers must provide prescription drug information, including drugs and medications that are covered, and those not included in the drug formulary to prospective enrollees, and enrollees.

Additionally, the [2016 Letter to Issuers in the FFM](#) and the 2016 Benefit and Payment Parameter regulations require that a health plan must publish an up-to-date, accurate, and complete list of all covered drugs on its formulary drug list in a manner that is easily accessible. A formulary list must include any tiering structure that the plan has adopted and any restrictions on the manner in which a drug can be obtained. A formulary drug list will be considered easily accessible when the general public is able to view it on the plan's public website through a clearly identifiable link or tab without having to create or access an account or enter a policy number. The general public should be able to easily discern which formulary drug list applies to which plan(s) if the health plan issuer maintains more than one plan. To be considered up-to-date, the formulary drug list must accurately list all of the health plan's covered drugs at the time.

For more detailed information about the formulary drug list standards with which QHP issuers must comply, please re-read the New Hampshire Insurance Department April 9, 2015 Bulletin INS-15-012-AB and the September 25, 2014 Bulletin [INS-14-025-AB](#).

VIII. Balance Billing

RSA 420-J:8 requires health insurance issuers to include in their contracts with participating providers a provision stating that the provider shall not "bill, charge, collect a deposit from, seek payment or reimbursement from, or have recourse against a covered person or a person acting on behalf of the covered person (other than the health carrier or intermediary) for services provided pursuant to this agreement" including, but limited to, in the event of nonpayment by the issuer, issuer insolvency or breach of agreement. Issuers are expected to include this provision in all provider agreements.

IX. Contact Information

Questions related to this bulletin should be directed to Jennifer Patterson, Life, Accident and Health Legal Counsel at the New Hampshire Insurance Department, at jennifer.patterson@ins.nh.gov or by phone at (603) 271-7973 ext. 215.