August 22, 2003

Bulletin 121

Individual and Association or Discretionary Group Policies
Pre-existing Condition Exclusion Waivers

This bulletin is directed to all insurers that write health insurance through individual policies or association or discretionary group policies. Beginning July 1, 2003, through July 1, 2005, Senate Enrolled Act No. 341 (Public Law 211-2003) allows insurers under certain conditions to issue individual policies with a waiver of coverage for a specified condition and complications directly related thereto. In addition, the Department of Insurance (Department) shall establish a two (2) year demonstration project to evaluate the value of preexisting condition exclusion waivers on coverage sold to members of associations or discretionary groups.

Individual policies

Any insurer that issues individual policies must notify the Department by September 15, 2003, that they are issuing individual policies and whether or not they intend to issue waivers pursuant to PL 211-2003. Notices shall be submitted via email to Tracey Sullivan at tsullivan@doi.state.in.us. An insurer that will be issuing waivers should include a written policy outlining their plan to ensure no waivers will be placed after July 1, 2005. All notices should include the name, telephone number and email address of a contact person. An insurer may amend this notice to the Department but must do so no less than thirty (30) days before issuing a waiver.

Association and discretionary group policies – Demonstration Project

The Commissioner shall select three (3) insurers in the association or discretionary group market who may issue waivers of coverage during the demonstration project. In order to be selected as one of the three insurers in the demonstration project, the insurer must meet the following criteria:

1. Be an insurer as defined in IC 27-1-2-3(x).
2. Prior to July 1, 2003, have offered in Indiana an individually underwritten association or discretionary group health insurance policy that is not employer based.
3. Prior to July 1, 2003, have had a documented program for administering the policy that includes consumer safeguards to:
   (A) provide prior written notice of conditions subject to the waiver;
   (B) limit the number of waivers per individual;
   (C) limit the period during which a waiver may be in effect; and
   (D) provide for full benefits upon the expiration of the waiver.

Insurers that are selected for the demonstration project shall meet all of the following requirements:

1. Each insurer may issue not more than one thousand five hundred (1,500) certificates of coverage containing a waiver during the project period.
2. The insurers shall bear all of the costs of the demonstration project, including any research, analysis, and reporting related to the project.
3. A waiver of coverage for a specified condition and complications directly related to the specified condition may not exceed two (2) years and the following conditions shall be met:
   (A) The waiver may be applied only at the time the certificate is issued;
   (B) The insurer shall provide to the applicant *before* issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition;
   (C) The insurer shall provide a written explanation of the waiver that includes a specific description of each condition, complication, service, and treatment for which coverage is being waived. See example attached hereto as Exhibit A;
   (D) The offer of coverage and the certificate of coverage shall include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and shall specify each related condition complication, service, and treatment for which coverage is waived;
   (E) The offer of coverage and the certificate of coverage may not include more than two (2) waivers per individual;
   (F) The insurer may not place waivers for a mental health condition or a developmental disability nor for any condition for which coverage is required under state law;
   (G) The waiver period must be concurrent with and not in addition to any other applicable pre-existing condition limitation or exclusionary period;
   (H) The insurer shall require an applicant to initial the written notice and the waiver included in the offer of coverage and in the certificate of coverage to acknowledge acceptance of the waiver of coverage; and
   (I) The insurer shall provide to the certificate holder an insurance benefit card that includes a telephone number for verification of coverage waived.
4. The insurer shall review the underwriting basis for the waiver upon request one (1) time per year and remove the waiver if evidence of insurability is satisfactory.

In addition to the disclosure requirements specifically stated in P.L. 211-2003, the Department is directing all participating insurers to provide notice to the insured that the waiver is issued pursuant to a demonstration project and that a representative of the Department of Insurance will contact the insured to discuss their experience with the coverage.

Any insurer writing association or discretionary group policies that is interested in participating in the demonstration project should submit a written request to the attention of Joy Long at the Department no later than September 15, 2003. The insurer's request shall include documentation to show the insurer meets the required criteria and a copy of the proposed waiver form.

Filing and reporting requirements

For all insurers issuing waivers on individual policies or under the demonstration project, the waiver form must be filed with and approved by the Department pursuant to IC 27-8-5-1.

All insurers issuing waivers on individual policies or under the demonstration project are reminded of the reporting requirements of Section 10 of P.L. 211-2003. Reports should be submitted to the Department to the attention of Joy Long, Deputy Commissioner for Health Issues.

INDIANA DEPARTMENT OF INSURANCE

Sally McCarty

Sally McCarty, Commissioner

Exhibit A

The following is an example acceptable to the Department of a written explanation of a waived condition and the complications directly related to that condition.

Condition(s) excluded: Services and treatment of benign renal diseases, disorders, tumors, cysts, infections, inflammations, atrophy, hypertrophy, calculus, fibrosis, necrosis, failure, hemorrhage, thrombus any progression, recurrence or complications arising therefrom are excluded from coverage.

Also excluded: Services and treatment of the excluded conditions and complications related thereto which include specifically malignant neoplasm of kidney, malignant neoplasm of other urinary organs, urinary calculi, artificial opening of urinary tract, fitting and adjustment of urinary devices, screening for other genitourinary conditions, acute and/or chronic proliferative nephritis, acute and/or rapidly progressive nephritis, acute and/or chronic flomerulonephritis, nephritic syndrome proliferative, epimembranous nephritis, membranoproliferative nephrosis, minimal change nephrosis, nephritic syndrome, rapidly progressive nephritis, renal cortical necrosis, nephritis nos/medullary necrosis, renal failure with lesion of tubular necrosis, renal failure with lesion of renal cortical necrosis, medullary necrosis, acute renal failure unspecified, renal sclerosis, renal osteodystrophy, nephrogenic diabetes insipidus, impaired renal function, unilateral or bilateral small kidney(s), pyelonephritis with or without lesion of renal medullary necrosis, renal and perinephric abscess, pyeloureteritis cystica, pyelonephritis unspecified, infection of kidney unspecified, hydronephrosis, calculus of kidney, calculus of ureter, cyst of kidney, vascular disorders of kidney, and ureteral fistula.