



SPRING, 1999



COMMISSIONER URGES LAST OF HIP-NJ MEMBERS TO FIND NEW HEALTH COVERAGE

On March 29, Banking and Insurance Commissioner Jaynee LaVecchia urged the remaining members of the insolvent HIP-NJ who had not yet found new health coverage to act quickly to enroll in new health care plans. "It is imperative that anyone who is still relying on HIP-NJ for their health care services – especially those with pre-existing conditions – enroll with another health care plan by Wednesday, March 31 to avoid any interruption in coverage."

After concluding that HIP could not survive as a healthy financial entity, Commissioner LaVecchia issued an order on February 8, requiring a special open enrollment period. This gave HIP–NJ members a chance to select another HMO or health care carrier. This open enrollment period ended March 31.

To facilitate their transition to new insurers, the Commissioner ordered that any HIP-NJ member or eligible group that applied for health care coverage by March 31 and paid their premium would have health insurance beginning April 1. The order recognized that some materials, such as member identification cards, benefit handbooks and a list of medical providers might not be immediately available to HIP-NJ members who transitioned to the new health care plan at the deadline date, but guaranteed that coverage would at least be available through the new plans if needed.

HIP members who missed the March 31 deadline risk going without health insurance for several weeks. However, any HIP-NJ members who submitted their applications and premiums in April are guaranteed coverage effective no later than May 1, 1999.

HIP-NJ was announced to be in financial distress last fall and was declared insolvent by court order in December. Since then, members have been enrolling in new health plans.

HORIZON HEALTHCARE BUYS MEDICAID CONTRACT OF

APPP

On February 5, Banking and Insurance Commissioner Jaynee LaVecchia announced that Horizon Healthcare of New Jersey Inc. would purchase the Medicaid contract of American Preferred Provider Plan, Inc., an HMO that has been in rehabilitation and under state control since December.

The 32,000 Medicaid recipients enrolled in APPP were automatically enrolled into Horizon HMO on March 1. Horizon is the state's largest health maintenance organization serving Medicaid recipients. Mercy Health Plan of New Jersey will manage the Medicaid program for Horizon.

"I am very pleased that Medicaid recipients who have been APPP members will continue to receive medical benefits without any disruption of service or inconvenience," Commissioner LaVecchia said.

"Horizon has been a partner in our highly successful Medicaid managed care program for several years," said Michele K. Guhl, Commissioner of the Department of Human Services. "These Medicaid beneficiaries will continue to have access to high quality care through an established health maintenance organization with a proven track record."

APPP, an HMO licensed in New Jersey in 1995 to Dr. Magdy Elamir, was declared insolvent and placed in rehabilitation on December 10, 1998. The department has overseen the day-to-day operations of APPP since October 15, 1998, when the company was placed under administrative supervision.

Rehabilitation was prompted by the discovery that APPP had made loans outside the normal course of business to other companies owned by Elamir and that the company had an inadequate system to properly account for claims.

Money from the sale of APPP's Medicaid business will be used to reimburse providers and other creditors.

PUBLIC HEARING ON AETNA'S PROPOSED ACQUISITION OF PRUDENTIAL HEALTHCARE PLAN

The Department of Banking and Insurance and the Department of Health and Senior Services held a public hearing on April 9 to discuss the proposed acquisition of Prudential HealthCare Plan by Aetna. ☐

The purpose of the hearing was to consider whether to approve a filing by Aetna Inc. to purchase

Prudential HealthCare Plan Inc. All acquisitions of health maintenance organizations must be approved by both departments.

Under HMO regulations, the departments are required to examine the following:



- whether, after the change of ownership, the HMO would be able to satisfy its certificate of authority requirements;
- whether the change of ownership would substantially lessen competition among HMOs or tend to create a monopoly;
- whether the financial condition of the acquiring party might jeopardize the financial stability of the HMO or adversely affect the provision of health care services to members;
- whether the proposed change of ownership is determined to be unfair and unreasonable to members and/or the public interest and;
- whether the competence, experience and integrity of the people who would control the HMO are such that it would not be in the interest of the members and/or the public interest to approve the acquisition.

Prudential HealthCare Plan Inc., a Texas-based corporation, has held a certificate of authority to operate an HMO in New Jersey since 1976 and has 103,449 members. Aetna's New Jersey operations include Aetna U.S. Healthcare, Inc., NYLCare Health Plan of New Jersey and Aetna Health Plans of New Jersey. Aetna U.S. Healthcare Inc. is the state's largest HMO with 779,332 members. NYLCare has 37,773 members and Aetna Health Plans has none.

The oral and written testimony generated by the public hearing is currently under review by the hearing panel.

POINT-OF-SERVICE ("POS") PLANS FOR SMALL EMPLOYERS

All POS plans are *not* alike, especially POS plans offered in the standardized small employer market. The name is the same, but the structure and coverage can be very different. If you are selling POS plans,

take note!

First, is the carrier issuing the plan an indemnity carrier or an HMO carrier, or maybe both?

POS plans issued on *indemnity carrier* paper contain one set of covered charges that apply to both network and non-network coverage. The covered charges are identical to those contained in standard Plans C, D or E and the plan contains a section that discusses POS provisions. The schedule pages identify the copay amounts, and coinsurance requirements. Unlike a standard indemnity plan that contains a coinsurance cap, the standard POS plan contains a coinsured charge limit of \$10,000. The coinsured charge limit is the dollar amount of covered charges a person must incur before the plan pays benefits at 100 percent. Covered charges used to satisfy the deductible and charges for network as well as non-network services and supplies, whether paid by the covered person or the carrier, are considered in the calculation of the coinsured charge limit. Charges for mental or nervous conditions are excluded from the coinsured charge limit feature. The lifetime maximum benefit for both the network and non-network covered charges is unlimited.

POS plans issued by an *HMO carrier* may be issued as either a single contract or as a dual contract.

The *single contract* approach means that the *HMO* issues one contract that specifies network services and supplies and non-network covered charges. The services and supplies listed in the network portion of the contract mirror the services and supplies of the standard HMO plan. The non-network portion of the contract lists covered charges that mirror the covered charges under standard Plan C or Plan D. However, while standard Plans C and D have an unlimited lifetime maximum, the non-network coverage in the HMO-POS plan is subject to a \$5,000,000 lifetime maximum. The lifetime maximum requirement was imposed to satisfy the requirements of reinsurers that provide reinsurance to the HMO for the non-network coverage. The single contract HMO-POS plan contains a coinsured charge limit of \$10,000 that may be satisfied only by the non-network deductible and non-network covered charges, whether paid by the covered person or the carrier. Charges for mental or nervous conditions are excluded from the coinsured charge limit feature. Any limited services and supplies are subject to an offset such that a member may not exhaust the maximum services under the network portion and then begin to use the non-network services, or vice versa.

The *dual contract* approach means that the *HMO* issues an HMO contract that specifies only network services and supplies. An indemnity carrier issues an indemnity Plan C or Plan D that specifies the non-network covered charges. The HMO and indemnity plans include language to link the two contracts and to provide offsets for limited services so that a member may not receive two sets of limited benefits by accessing network as well as non-network services. The non-network contract of the dual contract plan contains a coinsured charge limit of \$10,000 that may be satisfied only by the non-network deductible and non-network covered charges, whether paid by the covered person or the carrier. Charges for mental or nervous conditions are excluded from the coinsured charge limit feature. The lifetime maximum benefit for both the network and non-network services and supplies is unlimited.

PRESCRIPTION DRUG COVERAGE UNDER SMALL EMPLOYER PLANS

All of the standard small employer health plans, other than Plan A, includes coverage for both inpatient and outpatient prescription drugs. To enhance the coverage provided under the standard plans, many carriers offer prescription drug riders that cover outpatient prescription drugs under a card program, a mail order program, or under a combination card/mail order program. The employer may purchase a plan either with or without a prescription drug rider. While an optional prescription drug rider may be dropped from a small employer plan, the coverage provided under the underlying medical plan cannot be dropped.

Plans issued by indemnity carriers generally cover prescription drugs subject to the deductible and coinsurance. If the plan is a managed care plan such as a PPO or POS, the carrier may choose to provide the network coverage subject to a \$15 copayment with the non-network coverage being subject to deductible and coinsurance.

Closed panel HMO plans may cover prescription drugs subject to either a \$15 copayment per prescription or subject to 50 percent coinsurance. The plan makes no distinction as to generic or brand name prescription drugs. The \$15 copayment for prescription drugs is built into the standard plan and is included in the rates for the HMO coverage. It is not a rider that can be dropped from the plan.

The single contract HMO-POS plan may cover network prescription drugs subject to either a copayment equal to the physician visit copayment under the plan (\$5, \$10, \$15 or \$20) or subject to the same coinsurance as non-network services. The plan makes no distinction as to generic or brand name prescription drugs. Coverage for non-network prescription drugs is subject to the deductible and coinsurance.

PIP COMMITTEE TO HELP IMPLEMENT AND REFINE NEW MEDICAL PROTOCOLS



On March 10, Banking and Insurance Commissioner Jaynee LaVecchia ordered the creation of an advisory committee to assist in reviewing the implementation of the new medical protocols for treatment of soft-tissue neck and back injuries sustained in automobile accidents.

Creation of the Personal Injury Protection Technical Advisory Committee will assist the Commissioner in evaluating the medical protocols' effectiveness in eliminating fraud and over-utilization from New Jersey's personal injury protection system. The committee will help monitor the PIP system to ensure that implementation of the medical protocols does not cause denial of reimbursement for medically necessary treatments.

"Continued consultation with the medical professional licensing boards, the Department of Health and Senior Services and other knowledgeable interested parties is essential to the successful implementation of the medical protocols," Commissioner LaVecchia said. "The establishment of the advisory committee creates the appropriate formal mechanism for this continued consultation."

Widely reported statistics reflect that whiplash claims in New Jersey cost more than twice the national average, result in twice as many visits to the doctor and result in longer periods of treatment than average. The auto reform legislation called for the establishment of medical protocols to curb over-utilization and thereby cut unnecessary costs from the PIP system.

The advisory committee will be made up of representatives from the medical professional licensing boards, the Commissioner of the Department of Health and Senior Services, the Insurance Fraud Prosecutor, four representatives of the insurance professional organizations, four representatives of the insurance industry and two representatives of the public.



AUTO REFORM UPDATE

The following reforms called for in the Automobile Insurance Cost Reduction Act of 1998 (AICRA) took effect on March 22.

15 PERCENT OVERALL RATE REDUCTION

Starting March 22, every driver who receives a quote for a new or renewal policy and chooses the limitation on lawsuit option for bodily injury liability coverage will receive a 15 percent rate reduction for mandatory coverage. Drivers with policies that include optional comprehensive and collision coverage may see a slight deviation in their reduction – within 2 percent of the overall required amount.

Drivers with policies that renewed prior to March 22, may apply without penalty for new policies to receive the rate rollback – and will not have to wait for their next renewal date for the reduced rates.

BASIC POLICY

The reforms authorized the creation of a new basic auto insurance policy intended as an affordable alternative for people who may not currently have insurance. This is a low-cost policy with minimum coverage that will meet mandatory insurance requirements. It has a \$15,000 personal injury protection (PIP) medical expense limit, although treatment of certain extremely serious injuries and costs for hospital care of other significant injuries is covered up to \$250,000. Other PIP benefits, such as income continuation and essential services, are not offered under the basic policy. The policy provides a maximum property damage coverage of \$5,000. Bodily injury liability coverage with a maximum limit of \$10,000 is optional and the "Limitation on Lawsuit Threshold" is mandatory for the basic policy.

NAMED DRIVER EXCLUSION

This option is aimed at parents wishing to avoid some of the high costs of comprehensive and collision typically associated with adding a teenaged driver to a policy. If such a driver will not be permitted to drive the most expensive family car, they can now be excluded from coverage on that car. If the named driver uses the car and has an accident, the insurer will not pay comprehensive and collision claims to have the car repaired.

NEW LOWER PIP LIMITS

While \$250,000 in personal injury protection (PIP) medical coverage remains an option, consumers may now choose to buy reduced levels of PIP: \$15,000, \$50,000, \$75,000 or \$150,000. In the case of certain serious/permanent injuries, the \$250,000 limit still applies to all policies.

LAWSUIT LIMITATIONS

For those who want to sue for any reason, regardless of the severity of the injury, the no-limit-on-lawsuit option remains available. As in the past, the premium for this option is significantly higher than for the lawsuit limitation threshold option that limits an individual's right to sue. The new reforms tighten up the lawsuit limitation threshold language used to define injuries eligible for suit.

MEDICAL PROTOCOLS

To combat the over-use of medical benefits long associated with New Jersey's auto insurance system, new medical protocols have been established for the treatment of soft tissue injuries to the neck and spine. These protocols are used as guidelines only - and are not intended to replace a treating physician's medical judgement. A new arbitration system has been established to ensure that an independent panel of medical peers will resolve conflicts over what treatments are medically necessary.



FINES AND OTHER PENALTIES

The department has assessed fines to the following companies and producers for various violations of New Jersey's insurance statutes and regulations:

Hartford Casualty and Twin City Fire Insurance Companies - \$57,400 for instances disclosed during a 1997 market conduct examination in which their marketing, termination and underwriting practices did not comply with certain requirements and for the filing of two inaccurate nonrenewal reports.

Lexington Insurance Company - \$25,000 fine and \$10,000 in costs for failing to file complete and accurate surplus lines processing subsystem ("SLPS") reports for three calendar quarters in 1995; for providing surplus lines coverage in New Jersey for non-multi-state risks through producers who were not authorized as surplus lines producers in New Jersey and whose offices and records were not maintained in New Jersey.

Liberty Mutual Insurance Company - \$10,000 for allowing unlicensed staff in offices located in Indiana and Florida to quote personal lines automobile insurance coverage for persons located in New Jersey.

New Jersey Manufacturers and Re-Insurance Companies - \$24,250 for instances disclosed during a 1997 market conduct examination, in which their claims handling procedures, marketing and termination practices did not fully comply with certain requirements.

Steadfast Insurance Company - \$12,500 for providing coverage to eleven New Jersey risks without a New Jersey surplus lines producer being involved with the placements and for submitting four quarterly reports which were not in compliance with New Jersey surplus lines laws.

Acevedo, Teolinda, Union City- \$10,000 and restitution to the MTF amounting to \$33,875 for accepting installment premium payments and failing to remit the payments to a servicing carrier for the MTF; for issuing 17 insufficient fund checks; for failing to establish and maintain a trust account and changing her residence address without proper notification to the Commissioner.

Atlantic Reliance Title Services, Inc., Iselin, and active officer **Ralph H. Grebow**, Middletown- \$2,500 for charging insureds at closings an amount in excess of the actual fees assessed for taxes, costs and judgement services.

Atlantic Title Agency, Inc., Millburn, and active officer **Thomas W. Alexander**, South Orange- \$5,000 for allowing attorneys not licensed as title agents to conduct real estate closings and effectuate coverages of insurance on behalf of the agency.

Brown, III, Burnell T., Lawrenceville- \$500 for the untimely remittance of a return premium to an insured and failing to properly notify the Commissioner of a change in his business address.

Brown, Walter S., Gillette- \$1,000 for distributing fliers to New Jersey residents advertising group health insurance which failed to clearly identify the name of the insurer providing the coverage.

Car Insurance of Paterson, Inc., Patterson, and active officer **Jeffrey L. Burke**, Brielle- \$10,000 for collecting improper motor club fees, using broker fee agreements that were not separate and apart from all other agreements; failing to properly supervise an employee and submitting the deficient applications to NJ PAIP.

Chopra, Rajinder K., Voorhees- \$1,000 for failing to comply with the department's life insurance replacement regulation and failing to notify the department of a change in his business address.

Cleary, Lynda Woods, Princeton - \$500 for issuing an insufficient fund check to the department in payment of a licensing fee.

Commonwealth Insurance Agency, Inc., Cherry Hill, and its active officer **Stephen Lishnoff**, Moorestown - \$2,500 for the agency transacting insurance with an expired producer license and for the agency changing its business address without proper notification to the Commissioner.

Conte, Bruce, A.J., Pequannock- \$1,500 for failing to comply with the department's life insurance replacement regulation.

Deegan, Robert S., Somerville- \$250 civil penalty for a misrepresentation on a public adjuster license application.

Donlan, Joseph, Springfield, PA. - \$1,000 civil penalty for rendering services in New Jersey as a public adjuster without first obtaining the required licensure from the Commissioner.

Edith Silver, Inc., Camden, and active officer **Paul M. Murphy**, Mount Holly - \$3,000 for failing to remit six auto insurance payments to the insurer and issuing six insufficient fund checks.

Ettore, James A., Sicklerville- \$1,000 for using misleading and/or deceptive business cards.

Grasso, Joseph M., Asbury Park- \$1,750 for failing to comply with the department's life insurance

replacement regulation and failing to furnish the Commissioner with written notification of a change in his business address in a timely manner.

Ivan Agency, Inc., and active officer **Hyun Jin Jeoung**, Fort Lee- \$1,000 for failing to remit return premiums to an insured after depositing the funds into the agency's operating account and issuing an insufficient fund check.

Johnson, Randolph L., Roselle- \$7,000 for submitting auto insurance applications to NJ PAIP containing various deficiencies.

Hong, Chit-Kian, Flushing, New York- \$250 for failing to notify the Commissioner within 30 days of the initiation of formal disciplinary proceedings in another state.

Lerro, Rudy R., Turnersville- \$500 for using an unfiled trade name.

McLafferty, Michael J., Nutley - \$2,000 for offering a credit card program as an inducement to purchase a life insurance policy, failing to respond to departmental inquiries and failing to comply with a departmental subpoena.

Mesaros, Kyra, Greenbrook- \$250 for submitting applications to NJ PAIP which resulted in various deficiencies being assessed by NJ PAIP.

Vega, Walter, Patterson - \$3,400 for offering a credit card program as an inducement to purchase a life insurance policy.

Viano, Richard J., Hackensack- \$3,000 for transacting insurance on behalf of an organization producer whose license had expired and for issuing correspondence to New Jersey brokers falsely representing that he was employed by the corporation named in the letterhead.

The following producers received fines for failing to notify the department of a change in residence and/or business address:

Adams, Gary D., Stamford, Connecticut - \$250

Bakich, Evelyn W., Lewisville, Texas - \$250

Cheesman, Gary Dean, Grand Rapids, Michigan - \$250

DeCoursey, Robert W., Philadelphia, Pennsylvania - \$250

Dreyfuss, Peter A., Forest Hills, New York - \$250

Haines, Michael, Norwalk, Connecticut - \$250

Kaltman, Jeffrey M., Livingston - \$250

Kesselman, Frank, Hockessin, Delaware - \$250

Romanelli, James V., Kearney - \$250

Scarborough Alliance Corporation, Irvington - \$250

Streit, Barry, San Francisco, California - \$250

Uruioc, Mihaela, Riverdale, New York - \$250

Wagner, James Bryan, New Orleans, Louisiana - \$250

Wahba, Nader M., Jersey City - \$250

LICENSE REVOCATIONS SUSPENSIONS, FINES AND COSTS

Guzman, David, North Bergen – Revocation, \$1,500 fine for having his salesperson's license revoked by the New Jersey Real Estate Commission (REC); for accepting life insurance premium payments and failing to remit them to the insurer and changing his business address without notification to the Commissioner.

Isenady, Wilner, Wood Ridge – Revocation, \$5,000 fine and costs for filing an application and attempting to secure coverage on October 24, 1995 for the theft of his vehicle which had been destroyed by fire on October 23, 1995.

Javier, Benton A., Colonia – Revocation, \$2,500 fine and costs for submitting a life insurance application and money order to an insurer without the knowledge or consent of the applicant and for failing to properly notify the Commissioner of a change in his business address.

Minard, Roland J., Bedminster – Revocation for executing a false affidavit of theft form which was filed with an insurer in support of the alleged theft of a vehicle and pleading guilty to theft by deception.

Piccola, George, Morristown – Revocation, \$1,000 fine and costs for misrepresentations on license applications.

NOTICE TO ALL NEW JERSEY PRODUCERS

RE: WORKERS COMPENSATION CERTIFICATES OF INSURANCE

It has been brought to the attention of the Department of Banking and Insurance that with respect to workers' compensation coverage, there are an increasing number of Certificates of Insurance being issued contrary to the provisions of N.J.S.A. 17:22A-17a(7).

In many cases, the employer named in the certificate did not purchase coverage. In some cases, coverage was purchased but subsequently terminated without notification to the certificate holder. In other instances, the policy number is not valid. There have been situations where the policy period is incorrectly shown. In certain cases, involving the residual market, the Compensation Rating and Inspection Bureau (NJCRIB) is identified as the insurer. It should be noted that NJCRIB is not an insurer.

Providing a certificate of insurance where:

- a. authority has not been granted by the insurers, or
- b. a policy has not yet or ever been issued, or
- c. the insurer has not been properly identified, or
- d. the policy number is not valid, or
- e. the policy period is not properly cited, or
- f. a certificate holder is not notified of termination of coverage,

may subject the producer to a financial penalty or other sanction deemed appropriate by the department.

Please be guided accordingly.

RE: INSURANCE IDENTIFICATION CARD COMPLIANCE

The Department of Banking and Insurance, the Division of Motor Vehicles (DMV) and the state police, have increased their efforts to make sure that the citizens of this state are being furnished with ID cards that are in compliance with departmental standards.

Producers are reminded that the cards they issue must conform with the standards set forth in N.J.A.C. 11:3-6.1 et. seq. For example, some deficient temporary ID cards brought to the department's attention were issued for periods of time less than the required 60 days.

Producers who give their insureds non-compliant ID cards expose their insureds to the possibility of having their vehicles fail inspections at DMV inspection stations. In addition, the producer is exposed to the penalties described in the Producer Licensing Act.

Producers should immediately inventory their supply of ID cards and issue only those ID cards that are in compliance. NJPAIP/CAIP certified producers should only use the temporary card approved by NJPAIP/CAIP. As needed, producers with voluntary appointments should contact their contracted companies for compliant ID cards.



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