

114.6 CMR DIVISION OF HEALTH CARE FINANCE AND POLICY

114.6 CMR 3:00: STUDENT HEALTH INSURANCE PROGRAM

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3.01: General Provisions

(a) Scope, Purpose and Effective Date. 114.6 CMR 3.00 establishes the requirements effective May 1, 2009, for Student Health Programs. In accordance with M.G.L. c. 15A, § 18, Massachusetts independent and public institutions of higher education must ensure that all full-time and part-time students participate in a Student Health Program or in a plan of comparable coverage.

(b) Authority. 114.6 CMR 3.00 is promulgated in accordance with the provisions of M.G.L. c. 15A, § 18.

3.02: Definitions

The following terms as used in 114.6 CMR 3.00 have the following meanings, except where the context clearly indicates otherwise:

Carrier. An insurer licensed or otherwise authorized to transact accident and health insurance under M.G.L. c. 175; a nonprofit hospital service corporation organized under M.G.L. c. 176A; a nonprofit medical service corporation organized under M.G.L. c. 176B; or a health maintenance organization organized under M.G.L. c. 176G. An entity exempt from licensure under 211 CMR 43.02 (b) that operates a Student Health Program shall not be considered a carrier or subject to a carrier's enabling statute or the provisions of M.G.L. c. 176N or c. 176O for the purposes of complying with the requirements for that Student Health Program.

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G.

Emergency services. Services consistent with the Division of Insurance statutory references including those specified in M.G.L. c. 175, § 47U; M.G.L. c. 176A, § 8U; M.G.L. c. 176B, § 4U; and M.G.L. c. 176G, § 5.

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Evidence of Coverage. Any certificate, contract or agreement of health insurance including riders, amendments, endorsements and any other supplementary inserts or a summary plan description as defined in Division of Insurance regulations 211 CMR 52.00.

Full-time student. A student who meets the minimum academic requirements for full-time students as defined by the school in which the student is enrolled.

Health benefit plan. Any health plan offered through a health insurance program or other program through which an individual may obtain health benefits and services.

Independent institution of higher education. Any institution, other than institutions within the public system of higher education as set forth in M.G.L. c. 15A, § 5, that offers courses leading to an academic degree and is accredited by the Massachusetts Board of Higher Education under the provisions of M.G.L. c. 69, §§ 30, 30A and 31A and 610 CMR 2.00.

Low Income Patient. An individual whose status has been determined pursuant to the criteria in 114.6 CMR 13.00 and who may receive hospital or community health center services eligible for payment from the Health Safety Net.

MassHealth. The Medical Assistance program administered by the Executive Office of Health and Human Services pursuant to M.G.L. c. 6A, §16 and M.G.L. c. 118E and in accordance with Title XIX of the Federal Social Security Act and all applicable Federal demonstrations and waivers.

Mental illness. A condition consistent with Massachusetts statutory references, including those specified in M.G.L. c. 175, § 47B; M.G.L. c. 176A, § 8A; M.G.L. c. 176B, § 4A; and M.G.L. c. 176G, § 4M.

Office of Patient Protection. The office within the Department of Public Health established by M.G.L. c. 111, § 217 responsible for the administration and enforcement of M.G.L. c. 176O, §§ 13 through 16.

Part-time student. A student who participates in at least 75% of the academic requirements for full-time students.

Public institution of higher education. An institution of higher education as defined in M.G.L. c. 15A, § 5, and Quincy College.

Resident. A person living in Massachusetts with the intention to remain permanently or for an indefinite period of time.

School. A public or independent institution of higher education located in Massachusetts.

School year. The 365-day period commencing on the first day of the fall semester at each school.

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Student. A full-time or part-time student enrolled in a degree-granting program at a school.

Student Health Program. A student health insurance program offered by a school in accordance with the requirements of M.G.L. c. 15A, § 18 and 114.6 CMR 3.00.

3.03: Mandatory Health Insurance Coverage

(1) Students. Every full-time and part-time student enrolled in a certificate, diploma or degree-granting program of higher education must participate in his or her school's Student Health Program or in a health benefit plan with comparable coverage as defined in 114.6 CMR 3.05(2).

(2) Schools. Every school shall offer a Student Health Program and shall require all full-time and part-time students enrolled in a certificate, diploma or degree-granting program to participate in the school's Student Health Program or in a health benefit plan with comparable coverage as defined in 114.6 CMR 3.05(2).

3.04: Student Health Program Requirements

(1) Required Benefits. A school's Student Health Program must provide reasonably comprehensive coverage of health services, including preventive and primary care, emergency services, surgical services, hospitalization benefits, ambulatory patient services, and mental health services. Carriers must provide all benefits and services required by Division of Insurance statutes and regulations.

(2) Other Requirements. A school's Student Health Program

(a) may not exclude or limit coverage, except as otherwise permitted by 114.6 CMR 3.04(3), of any full-time or part-time student who is away from campus for any reason;

(b) must include services delivered in accordance with the healing practices of Christian Science;

(c) must provide a maximum aggregate indemnity of at least \$50,000 to be paid for all benefits for each physical or mental illness or accident, if the Student Health Program limits benefits per illness or accident;

(d) must specify in writing its policy regarding premium refunds and partial year student enrollment;

(e) must specify in writing its policy regarding denial of payments for rendered services and for denials of referrals for requested services, including an internal grievance procedure. Carriers must provide students with notification of the right of appeal to the Office of Patient Protection.

(f) must not consider a student a late enrollee if a request for enrollment is made within 30 days after termination of coverage under another health insurance plan, including MassHealth or Commonwealth Care, and prorate premiums for such student based on the month of enrollment in the Student Health Program; and

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(g) may define benefit levels either as benefit levels per school year or as benefit levels per 52-week period from the onset of illness or accident.

- (3) Permissible Exclusions and Limitations. A school's Student Health Program may
- (a) impose reasonable exclusions and limitations including different benefit levels for in-network and out-of-network providers;
 - (b) impose reasonable co-payments and deductibles. The school's Student Health Program must specify the co-pay amount for in-network and out-of-network office, clinic, and hospital visits. The total annual deductible may not exceed \$250 per year.
 - (c) exclude charges reimbursable by any other valid and collectible medical insurance plan, provided that any charges in excess of the limits of such other medical insurance plan must be reimbursed as otherwise provided in the school's Student Health Program; and
 - (d) exclude hospital or medical care resulting from participation in intercollegiate athletics provided that such care is covered under another health insurance program with equal or greater coverage.

(4) Student Health Service. A school may elect to provide some or all of its student health benefits through an on-campus student health service. If the school's Student Health Program uses an on-campus student health service that is not equipped to provide all of the benefits required by law, the program must arrange for students to obtain access to outside providers of the required services. Such access arrangements may include procedural rules for students to follow to obtain access to outside providers. Students must follow the procedural rules established by the program to obtain access to outside services. The student health service shall specify, in writing, the consequences of a student's failure to follow such procedural rules, and shall further specify that a student has a right of review from any denial of services or payment for services as a result of a student's failure to follow such procedural rules. The student health service shall also provide a grievance procedure and notification of the right to file a grievance if the student's request for access to an outside provider is denied. An on-campus student health service shall maintain records of referrals made to outside providers of mandated benefits and denied requests for referrals to outside providers.

(5) Additional Benefits. A school's Student Health Program may offer benefit levels that exceed the minimum requirements. In designing Student Health Programs, schools may take into consideration the following factors: the type and nature of the student body, the size of the campus, the location of the campus, the extent of on-campus health services, the ability of individual students to purchase health benefit plans, and the ability of the school to join with other schools for the purpose of securing savings through collective bidding for Student Health Programs.

(6) Disclosure. Schools must make available and accessible to students, at the same time registration materials become available but no less than 30 days in advance of the registration deadline, information regarding all benefits and services available to the student under the Student Health Program together with applicable limitations and exclusions. Such information, including the Student Health Program's Evidence of

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Coverage, must be made available through the school's website and its availability communicated by other channels through which student health information is commonly distributed to students.

3.05: Waiver of Participation due to Comparable Coverage

(1) Election of Waiver of Participation. A school may elect to allow full-time and part-time students to waive participation in their school's Student Health Program. Schools electing to allow waivers must:

- (a) clearly communicate to their students information regarding the waiver process, the manner by which a student may request and obtain a waiver, and the deadlines associated with the waiver process.
- (b) require students waiving participation to certify, in writing, at least annually, as part of the school's usual registration process that they are participating in a health benefit plan with comparable coverage.

(2) Comparable Coverage.

- (a) Coverage under a health benefit plan is comparable if
 1. the health benefit plan provides to the student throughout the school year reasonably comprehensive coverage of health services, including preventive and primary care, emergency services, surgical services, hospitalization benefits, ambulatory patient services, and mental health services; and
 2. the services covered under the health benefit plan are reasonably accessible to the student in the area where the student attends school.
- (b) A school may waive participation for students enrolled in MassHealth or a Commonwealth Choice Young Adult Plan.
- (c) A school may not waive participation for
 1. students determined to be Low Income Patients for Services Eligible for Payment from the Health Safety Net or enrolled in Commonwealth Care;
 2. students with coverage from insurance carriers outside the U.S. and coverage by foreign National Health Service programs, unless the student is studying in a foreign country and the student's insurance provides coverage in that location; and
 3. students with a health benefit plan that provides coverage through a closed network of providers, not reasonably accessible in the area where the student attends school, for all but emergency services.
- (d) It is the responsibility of the student seeking to waive participation in his or her school's Student Health Program – not the school in which the student is enrolled – to determine whether the student's health benefit plan has coverage comparable to the coverage offered under his or her school's Student Health Program.

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(3) Written Waiver Request.

(a) A school electing to allow students to waive participation in the school's Student Health Program must obtain, from each student, a written waiver request. The waiver request must be on a form supplied by the school, and may be submitted electronically. The waiver request must contain, at a minimum, the following information:

1. the name of the entity offering the health benefit plan;
2. the policy or other number used to identify the student's participation in the health benefit plan;
3. the subscriber or primary enrollee in the health benefit plan and the relationship of that person to the student;
4. a statement certifying that the coverage under the health benefit plan is comparable to coverage under the school's Student Health Program and that the student understands that once a waiver request is submitted, the student will be responsible for his or her medical expenses, and that neither the school nor the Student Health Program will be responsible for those expenses; and
5. a signature of the student and the student's parent or guardian if the student is a minor. A school may accept electronic waiver forms and electronic signatures.

(b) A school has no affirmative obligation to compare coverage of the two plans. If a school relies in good faith on the statements by a student that the coverage is comparable, the school is not be liable for any penalty or for any failure to comply with a provision of 114.6 CMR 3.00 caused by any misstatement by the student. A school must not accept a student's waiver request, however, if it knows that the student's statement is inaccurate or if the student's coverage cannot be verified. If a school does not accept a student's waiver request, the student must participate in their school's Student Health Program.

3.06 Recordkeeping

All schools must maintain records sufficient to demonstrate compliance with 114.6 CMR 3.00. These records must include, at a minimum, a copy of the school's Student Health Program offered to students; a copy of the school's Student Health Program's Evidence of Coverage; all informational materials developed by or for the school to describe its Student Health Program; the student's obligations to participate in his or her school's Student Health Program; and all written waiver requests submitted pursuant to 114.6 CMR 3.05 (3). Such records must be maintained for at least three years.

3.07: Reporting

(1) By November 1 of each year, each school must report to the Division, in a manner specified by the Division, the following information:

- (a) the total number of full-time and part-time students enrolled in the school who are required to participate in their school's Student Health Program or in a health benefit plan with comparable coverage for the current school year;

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- (b) from the total number reported in 114.6 CMR 3.07(1)(a) above, the number who have waived participation in their school's Student Health Program pursuant to 114.6 CMR 3.05 for the current school year; and
- (c) performance metrics, such as medical and administrative costs, the number of claim denials and grievances, medical loss ratios, and other administration and performance measures as specified by the Division, pertaining to the Student Health Program for the previous school year.

(2) By March 1 of each year, each school must report to the Division, in a manner specified by the Division:

- (a) the following information for the upcoming school year:
 - 1. the name of the carrier underwriting the school's Student Health Program;
 - 2. the premium cost per student per year for the school's Student Health Program;
 - 3. any other health-related charges or fees assessed to students; and
 - 4. a description of the benefits, benefit levels, exclusions, limitations, and other important terms and conditions of the school's Student Health Program through the submission of marketing materials and the Evidence of Coverage for the school's Student Health Program, and submission of the benefit information.
- (b) an update of the information reported pursuant to 114.6 CMR 3.07 (1) above to reflect any changes that may have occurred since the prior reporting period.

(3) Each school shall provide to the Division such additional information, data and materials as the Division may request from time to time in connection with implementation of 114.6 CMR 3.00.

3.08: Oversight and Enforcement

(1) Investigation, Review and Audit Procedures. The Division may periodically investigate, review or audit the efforts of a school in compliance with 114.6 CMR 3.00. A school must make available to the Division all records required to be maintained by the school under 114.6 CMR 3.05 and 114.6 CMR 3.06 and such other records, information and data that the Division deems pertinent. Upon or soon after the completion of its investigation, review or audit, the Division will confer with the school to describe the investigation, review or audit process itself, to discuss any conclusions and recommendations under consideration by the Division and to offer or obtain additional pertinent information. Upon completion of its written report, the Division will forward a copy to the school.

(2) Enforcement Process. If the Division determines, after investigation, review or audit, that a school has failed to comply with 114.6 CMR 3.00 and that a sanction authorized under 114.6 CMR 3.11 should be imposed, the Division must issue a Notice of Action. The Notice of Action must specify the facts relied upon in making this determination, cite any statute or regulation which authorizes the Division to take the action, and inform the school of its right to an adjudicatory hearing. An adjudicatory hearing under 114.6 CMR

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3.00 is governed by the rules of practice and procedure set forth in 801 CMR 1.01 and 1.03.

3.09: Sanctions

Each school which fails to meet its obligations under 114.6 CMR 3.00, including maintenance of required documentation and reporting requirements, must pay a penalty of at least \$35 or \$5 for each student, whichever is greater, for every day the failure continues.

3.10: Administrative Bulletins

The Division may periodically issue administrative bulletins containing interpretations of 114.6 CMR 3.00 and other information to assist schools to meet their obligations under 114.6 CMR 3.00.

3.11 Severability

If any section or portion of sections of 114.6 CMR 3.00, or the applicability thereof to any person or circumstances is held invalid by any court of competent jurisdiction, the remainder of 114.6 CMR 3.00, or the applicability thereof to other persons or circumstances, will not be affected thereby.

REGULATORY AUTHORITY

114.6 CMR 3.00: M.G.L. c. 15A, s. 18