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BULLETIN 98-10

TO: Blue Cross and Blue Shield of Massachusetts
Health Maintenance Organizations
Commercial Health Insurers

FROM: Commissioner Linda Ruthardt

DATE: August 25, 1998

RE: Attachment to "1998 Guide to Health Insurance for People with Medicare"

Enclosed please find a copy of the Massachusetts Attachment to the "1998 Guide to Health Insurance for People with Medicare." The Massachusetts Attachment must be provided along with the "1998 Guide to Health Insurance for People with Medicare" to those people eligible for Medicare pursuant to Massachusetts regulations 211 CMR 42.09(4) and 211 CMR 71.13(2)(d)4. Please note that the Massachusetts Attachment is in 14-point type.

Questions regarding this bulletin may be directed to Amy Novick of the Office of the General Counsel at the Division of Insurance at (617) 521-7317.

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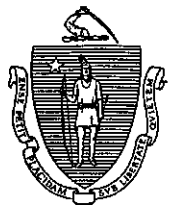

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Massachusetts Attachment to the "1998 Guide to Health Insurance for People with Medicare"

• Introduction

This is the Massachusetts Attachment to the "1998 Guide to Health Insurance for People with Medicare" (1998 Federal Guide). The Massachusetts Attachment (Attachment) tells you what information in the 1998 Federal Guide **does not** apply in Massachusetts and describes some Massachusetts rules that the 1998 Federal Guide does not tell you about, including Massachusetts reforms that started on January 1, 1995. This Attachment has been prepared by the Massachusetts Division of Insurance and was last updated on August 25, 1998.

• The Balanced Budget Act of 1997 (Page iii of the 1998 Federal Guide)

The federal Balanced Budget Act of 1997 might affect the benefits included in managed care plans being offered in Massachusetts. The position of the Massachusetts Division of Insurance is that a Medicare + Choice plan, including a managed care plan, must continue to comply with Massachusetts laws which mandate benefits. It is possible, however, that managed care plans will argue that the Balanced Budget Act of 1997 relieves them of their obligation to provide state mandated benefits as of January 1, 1999.

You should ask any managed care plan that you are considering buying if the plan will provide the benefits required by Massachusetts laws and regulations on or after January 1, 1999 and, if not, what benefits it plans on providing.

The Division of Insurance intends to enforce state law, but cannot guarantee that the benefits currently required by state law will be required after January 1, 1999. Court proceedings may ultimately affect the answer to that question. Therefore, you must be extra careful as you shop for a managed care plan.

- **Insurance Counseling** (Page 1, Pages 32 through 40 of 1998 Federal Guide)

In Massachusetts, you can receive health insurance and benefit counseling services through the SHINE program (Serving Health Information Needs of Elders) at the Executive Office of Elder Affairs by calling **1-800-882-2003** or **(617) 727-7750**.

If you have a question or problem concerning insurance, you can call the Division of Insurance Consumer HELP LINE at **(617) 521-7777**. The Division of Insurance also has a website at http://www.state.ma.us/doi.

The Office of the Managed Care Ombudsman, at **1-800-436-7757**, can help you in using any coverage that involves managed care.

You can request, in writing, copies of any of the following guides. These guides have important information for Massachusetts consumers (mailing addresses follow this list):

1. **"The Massachusetts Guide to Health Insurance for People with Medicare": This guide has a list of approved Medicare supplement (Medigap) and managed care plans for people with Medicare, as well as other information for people in Massachusetts with Medicare. When requesting this guide, please indicate in your letter whether you have a copy of the 1998 Federal Guide and this Attachment so you do not receive duplicate materials. (May be obtained by writing to the Executive Office of Elder Affairs or the Division of Insurance.)**

2. "A Consumer's Guide to Long Term Care Insurance" (May be obtained by writing to the Executive Office of Elder Affairs or the Division of Insurance.)

3. "AIDS and Health Insurance: Take Charge of Your Health!" (May be obtained by writing to the Division of Insurance.)

4. "You *Can* Take It With You: Continuation of Group Insurance Coverage" (May be obtained by writing to the Division of Insurance.)

5. "A Consumer's Guide to Nursing and Rest Homes" (May be obtained by writing to the Executive Office of Elder Affairs.)

6. "Assisted Living in Massachusetts: A Consumer's Guide" (May be obtained by writing to the Executive Office of Elder Affairs.)

Mailing Addresses For the Executive Office of Elder Affairs and Division of Insurance:

Information and Referral
Executive Office of Elder Affairs
One Ashburton Place, 5th Floor
Boston, MA 02108

Consumer Service Section
Division of Insurance
470 Atlantic Avenue
Boston, MA 02210-2223

- **Definition of Assignment** (Page iv of 1998 Federal Guide)
- **Medicare Medical Insurance Benefits (Part B)** (Pages 7 to 9 of 1998 Federal Guide)

Under Massachusetts law, a licensed physician cannot collect more than the Medicare-approved charge for any Medicare-covered service provided to a Medicare beneficiary. This type of law is often called a **"ban on balance billing."**

Under this law, a physician can charge you, or collect from your insurer, a copayment or coinsurance for Medicare-covered services. However, the physician cannot charge or attempt to collect from you an amount that, together with your copayment or coinsurance and any amount paid by your insurer, is greater than the Medicare-approved amount. For example, assume that Ms. Jones has already satisfied her calendar year Medicare Part B deductible of $100 and receives Medicare-covered services from her physician, for which her physician charges $150. If Medicare determines that the Medicare-approved amount for the service was $100, Medicare would pay $80 (80% of the $100). Ms. Jones is responsible

for paying $20 (20% of the $100). The "ban on balance billing" prohibits her physician from charging Mrs. Jones an additional $50 (the amount above the $100 approved by Medicare).

You will note that, under this law, a physician can charge you, or collect from your insurer, a copayment or coinsurance for Medicare-covered services. However, the physician cannot charge or attempt to collect from you an amount that, together with your copayment or coinsurance and any amount paid by your insurer, is greater than the Medicare-approved amount. Please contact the Board of Registration in Medicine at **(617) 727-3086** if you believe that a physician is not complying with this law.

- **What is Medicare?** (Pages 2 to 3 of 1998 Federal Guide)

For more information on the Medicare Program, please call the Social Security Administration at **1-800-772-1213** or the Executive Office of Elder Affairs SHINE Program at **1-800-882-2003**.

If you believe that you are not receiving the Medicare coverage that you are entitled to, you can call the Medicare Advocacy Project (MAP) at **1-800-323-3205** for information and help.

- **Standard Medigap Plans** (Pages 13 to 19 of 1998 Federal Guide)

As noted in the 1998 Federal Guide, Massachusetts has standard Medigap plans that are different from the plans sold in other states. The last page of this Attachment has a simple chart that describes the three Medigap plans that can be sold in Massachusetts on or after January 1, 1995: Medicare Supplement Core, Medicare Supplement 1 and Medicare Supplement 2. All three of these plans cover at least the benefits listed for Plan A in the 1998 Federal Guide, Page 16. Please note that the three plans sold in Massachusetts are not high deductible plans, which are mentioned on Page 15 of the 1998 Federal Guide. Some Medigap insurers may use "brand names" along with the standard plan names. When you look at an insurer's Medigap policies, be sure you know which standard plan is being described.

All Medigap insurers in Massachusetts must sell both the Medicare Supplement Core and Medicare Supplement 2 plans. The Medicare Supplement 2 Plan has benefits for outpatient prescription drugs. The Medicare Supplement Core and Medicare Supplement 1 plans do not cover outpatient prescription drugs.

Please read the section of this Attachment entitled "Medigap Premiums" to learn about premium and surcharges involving upgrading to a plan with higher benefits than the plan that you first choose.

- **Medigap Premiums** (Page 14 of 1998 Federal Guide)

There is no rating based on your age nor based on the health problems that you may have for new Medigap policies sold in Massachusetts for coverage starting **on or after** January 1, 1995; however, Medigap insurers can charge you a premium based on where you live.

Medigap policies sold for coverage starting **before** January 1, 1995 may charge a premium based on the issue age or attained age methods described in the 1998 Federal Guide.

People who apply for a Medigap plan or certain managed care plans when they are "initially eligible for coverage" may get a discount on their premium if the Medigap insurer or managed care plan has a discount program. People who don't enroll in a Medigap or managed care plan for people with Medicare when they become "initially eligible for coverage" and then apply later for a Medigap plan or managed care plan may have to pay a premium surcharge because they are "late enrollees" if the plan that they want to join has a surcharge program. Medigap insurers and certain managed care plans may also have a premium surcharge program for people who upgrade their coverage to a plan that has additional benefits (upgraders). As of August 25, 1998, no plans have a premium surcharge program.

"The Massachusetts Guide to Health Insurance for People with Medicare" has more information about discounts and surcharges. To find out how you can get a copy of that guide, please see Page 1 of this Attachment.

- **Medicare SELECT** (Pages 14 and 19 of 1998 Federal Guide)

As of August 25, 1998, there are no Medicare SELECT plans approved for sale in Massachusetts.

- **Open Enrollment Guarantees Your Right to Medigap Coverage** (Page 19 of the 1998 Federal Guide)
- **Medigap Open Enrollment and the Persons With Disabilities** (Pages 19 to 20 of Federal Guide)
- **Managed Care Plans and Medigap** (Page 23 of 1998 Federal Guide)

In Massachusetts, people with Medicare have more opportunities to purchase Medigap plans than described in the 1998 Federal Guide. Also, in Massachusetts, in most cases, a Medigap insurer cannot refuse to insure you because of your health or age; however, you can only apply during an open enrollment time and you must meet the other requirements listed below. As discussed on Page 27 of the Federal Guide, if you are enrolled in the Medicaid or QMB (Qualified Medicare Beneficiary) programs, there are special federal laws regarding whether you can be sold a Medigap Plan. Finally, under no circumstances may a Medigap insurer in Massachusetts impose any waiting period for coverage of a pre-existing illness, or any other type of waiting period.

Open Enrollment for People Who are "Initially Eligible for Coverage": Under Massachusetts rules, people who qualify as an "eligible person" and are "initially eligible for coverage" as defined below get a six-month open enrollment period for Medigap plans from the date they become "initially eligible for coverage." People who meet these requirements can buy any approved Medigap plan sold by an insurer in Massachusetts without further health screening and regardless of age.

You are an "eligible person" if you are eligible for Medicare Part A and B and are enrolled (or about to enroll) in Medicare Part B, regardless of age, with one exception: Medigap insurers can refuse to accept people who are under age 65 and on Medicare only because of end-stage renal disease.

You become "initially eligible for coverage" when:

1. you first enroll in Medicare Part B at any age; or
2. you have lost health insurance coverage from your employer because your job ends or your employer stops offering health coverage to employees like you; or
3. you are covered by an HMO but then move out of the HMO's service area; or
4. you become a Massachusetts resident.

Please read the section of this Attachment entitled "Medigap Premiums" to learn about premium discounts and surcharges involving enrollment when initially eligible for coverage.

Open Enrollment for People Who Are Turning 65 Or Who Are Age 65 Or Older When They Enroll in Medicare Part B: As discussed in the 1998 Federal Guide, if you are eligible for Medicare Part A and B, for a period of six months from the date you are both enrolled in Medicare Part B and are age 65 years or older, you can buy any Medigap plan sold by any insurer that is approved to sell Medigap plans in Massachusetts regardless of any health problems you may have. People who enroll under these circumstances are also considered "initially eligible for coverage" under Massachusetts rules.

Annual Open Enrollment Period: In Massachusetts, there is an annual open enrollment period from February 1 through March 31. During the annual open enrollment period, any person who qualifies as an "eligible person" can buy any approved Medigap plan sold by an insurer in Massachusetts without further health screening and regardless of age ("eligible person" is defined above concerning open enrollment for people "initially eligible for coverage"). Coverage will begin the following June 1 or when Medicare coverage is first effective if this will happen before June 1. (Managed care plans for people with Medicare also participate in this annual open enrollment period. The open enrollment rules for managed care plans are described in this Attachment in the section entitled "Managed Care Plan Enrollment.")

Other Open Enrollment Periods: Some Medigap insurers may have open enrollment periods during other times of the year or all year long (continuous open enrollment). The "**Massachusetts Guide to Health Insurance for People With Medicare**" lists which insurers have these kinds of open enrollment periods. To find out how you can get a copy of that guide, please see Page 1 of this Attachment.

Open Enrollment for People Who Are Under Age 65 and on Medicare for Any Disability Other Than End-Stage Renal Disease: Under Massachusetts requirements, people who are under age 65 and on Medicare for any disability other than end-stage renal disease can buy a Medigap plan if they become "initially eligible for coverage," or during an annual open enrollment period or during any other open enrollment period that a Medigap insurer has, as discussed above. Along with the Massachusetts open enrollment periods, these individuals get an open enrollment period under federal requirements when they turn age 65, as discussed in the 1998 Federal Guide, Pages 19 to 20. After turning 65, these people can still rely on the Massachusetts open enrollment times.

Open Enrollment for People Who Are Under Age 65 and on Medicare Only Because of End-Stage Renal Disease: People under age 65 and on Medicare only because of end-stage renal disease get the federal open enrollment when they turn age 65, as discussed in the 1998 Federal Guide, Page 17. After turning 65, under Massachusetts rules, people in this situation can also apply for a Medigap plan if they become "initially eligible for coverage," or during an annual open enrollment period or during any other open enrollment period that a Medigap insurer has scheduled, as discussed above.

- **Switching Medigap Policies** (Page 20 of 1998 Federal Guide)
- **Check For Pre-Existing Condition Exclusions** (Pages 28 to 29 of 1998 Federal Guide)
- **Take Your Time** (Page 30 of the 1998 Federal Guide)

Medigap insurers **cannot** impose any waiting periods when you switch Medigap policies. Medigap insurers in Massachusetts **cannot** limit or exclude coverage for health problems that you have at the time of purchase. This means that you are covered for services you receive on or after the effective date of insurance, regardless of when you first suffered from the sickness or injury.

Medigap insurers in Massachusetts also cannot have any other type of waiting period.

- **Medicare and Managed Care Plans** (Pages 21 to 22 of 1998 Federal Guide)

In Massachusetts, all managed care plans for people with Medicare are sold by licensed health maintenance organizations (HMOs). All of these managed care plans must sell a plan with unlimited outpatient prescription drug benefits that are similar to the benefits found in the Medicare Supplement 2 Plan discussed above.

"The Massachusetts Guide to Health Insurance for People with Medicare" has more information about managed care plans for people with Medicare, including whether an approved plan has a risk or cost contract with Medicare. To find out how you can get a copy of that guide, please see Page 1 of this Attachment. Please note that as of August 25, 1998, there are no Managed Care "Point of Service" (POS) plans approved for sale in Massachusetts.

- **Managed Care Plan Enrollment** (Page 22 of 1998 Federal Guide)

{**Please Note New Rules:** Under the federal Balanced Budget Act of 1997, the rules for eligibility and when you can enroll in managed care plans that are Medicare + Choice plans is slightly different than for plans based on a risk or cost contract, which are discussed below. For example, individuals who elect hospice coverage may enroll in a Medicare + Choice managed care plan. Also, individuals who develop end-stage renal disease while in a private plan offered by a Medicare + Choice organization can enroll in a Medicare + Choice managed care plan, and individuals who develop end-stage renal disease while enrolled in a Medicare + Choice managed care plan may remain in that plan. Finally, enrollment in Medicare + Choice managed care plans will start on November 1, 1998 for coverage effective January 1, 1999 and an individual can apply to enroll in such a plan continuously through December 31, 2001 with periodic enrollment available after that time.}

As discussed above, all the managed care plans in Massachusetts are sold by licensed HMOs. In Massachusetts, people with Medicare have more opportunities to buy managed care plans than described in the 1998 Federal Guide.

If you want to enroll in a managed care plan that has a risk or cost contract with Medicare you must meet the four requirements for enrolling in a managed care plan as listed in the 1998 Federal Guide, Page 22. These requirements are: (1) you must live in the plan's service area; (2) you must have Medicare Part B and continue paying Part B premiums; (3) you do not have permanent kidney failure; and (4) you cannot be receiving care in a Medicare-certified hospice. You should note that if you have permanent kidney failure, and you are currently enrolled in a non-Medicare HMO plan, you will be able to convert to that HMO's Medicare product. For more information on this option, you should contact your HMO plan.

Also, please read the section of this Attachment entitled "Medigap Premiums" which discusses premium discount and surcharge programs that may be offered by managed care plans, in addition to Medigap plans.

Open Enrollment for People Who are "Initially Eligible for Coverage": People who (1) meet the eligibility requirements for the plan in which they are enrolling and (2) qualify as "initially eligible for coverage" under Massachusetts rules, get a six month open enrollment period for managed care plans from the date they become "initially eligible for coverage." People who meet these requirements can buy any approved managed care plan sold by an HMO in Massachusetts for people with Medicare without further health screening and regardless of age.

You are "initially eligible for coverage" under Massachusetts rules when:

1. you first enroll in Medicare Part B at any age; or
2. you have lost health insurance coverage from your employer because your job ends or your employer stops offering health coverage to employees like you; or
3. you are covered by an HMO but move out of the HMO's service area; or
4. you become a Massachusetts resident.

Open Enrollment for People Who Are Turning 65 Or Who Are Age 65 Or Older When They Enroll in Medicare Part B: Under federal rules, if you are enrolled in a regular HMO plan (not designed for people on Medicare) for the month immediately before the month in which you are entitled to Medicare Parts A and B or Part B only, you may be able to convert to the HMO's plan for people

with Medicare. For more information on this option, you should contact your HMO plan.

Annual Open Enrollment Period: In Massachusetts, there is an annual open enrollment period from February 1 through March 31. During the annual open enrollment period, all the approved managed care plans for people with Medicare are available for sale and can be purchased if the applicant meets the plan's eligibility requirements without further health screening and regardless of age. Under federal rules, coverage will begin within no more than 90 days from the date you apply; you will have three options for your coverage starting date. (Medigap insurers also participate in this annual open enrollment period. The rules for Medigap insurers are discussed above in this Attachment.)

Other Open Enrollment Periods: Some managed care plans may have open enrollment periods during other times of the year or all year long (continuous open enrollment). Please note that HMOs are allowed to limit the time during which members without a drug plan may upgrade to a drug plan to just the February/March open enrollment period described above. **"The Massachusetts Guide to Health Insurance for People With Medicare"** lists which managed care plans have these kinds of open enrollment periods. To find out how you can get a copy of that guide, please see Page 1 of this Attachment.

Open Enrollment for People Who Are Under Age 65 and on Medicare for Any Disability Other Than End-Stage Renal Disease: Under Massachusetts rules, people who are under age 65 and on Medicare for any disability other than end-stage renal disease can buy a managed care plan if they (1) meet the eligibility requirements for the plan in which they are enrolling and (2) either become "initially eligible for coverage" or apply during an annual open enrollment or any other open enrollment period that the plan has, as discussed above. After turning 65, these people can still rely on the Massachusetts open enrollment times.

Open Enrollment for People Who Have End-Stage Renal Disease: Under federal rules, people who have end-stage renal disease cannot enroll in a managed care plan that has a risk or cost contract with Medicare. However, if you have permanent kidney failure and you are currently enrolled in a non-Medicare managed care plan, you will be able to convert to that managed care plan's coverage for people with Medicare.

- **Medigap Protection When Other Health Insurance Ends or Is Lost Effective July 1, 1998** (Pages 25 to 26 of the 1998 Federal Guide)

Pages 25 to 26 of the 1998 Federal Guide describe a new federal law that increases the opportunities to purchase Medigap coverage. This federal law went into effect on July 1, 1998. As noted above, Massachusetts does not use the federal plans A through J that are mentioned in the Federal Guide. However, under federal law, you have a right to purchase a plan that is similar to the federal plans A, B, C and F that are mentioned in the Federal Guide under this new law.

Therefore, if you have a right to purchase Plan A as described in the Federal Guide, then in Massachusetts you may purchase the Medicare Supplement Core plan. If you have a right to purchase Plans B, C or F as described in the Federal Guide, then in Massachusetts you may purchase the Medicare Supplement 1 plan.

Also, as discussed above, Medigap insurers in Massachusetts are required to cover pre-existing conditions and cannot exclude coverage for pre-existing conditions for any length of time.

- **Long-Term Care Insurance** (Page 26 of 1998 Federal Guide)

Massachusetts has a long-term care insurance regulation that applies to nongroup (individual) long-term care policies sold in Massachusetts. The Division of Insurance must approve all nongroup long-term care policies and premium rates. Group long-term care insurance policies and premium rates are not submitted to the Division for review and do not have to meet the same requirements as non-group long-term care policies. To find out how to get more information on long-term care insurance, please see Page 1 of this Attachment.

- **Specified Disease Insurance** (Page 26 of 1998 Federal Guide)

Specified disease insurance has not been sold in Massachusetts since October 1, 1997 due to the implementation of a new law regarding nongroup health insurance.

- **Do You Need More Insurance?** (Pages 26 to 28 of 1998 Federal Guide)

Before you buy a Medigap policy or managed care plan, please consider the following information. Due to your income or your financial need, you may qualify for programs that cover certain health services or help you pay for insurance. To get more information, you can contact the agencies listed below.

Medicaid, QMB (Qualified Medicare Beneficiary), and SLMB (Specified Low-Income Medicare Beneficiary): Call or visit your local office of the Division of Medical Assistance. You may also call the MassHealth Customer Service Center at **1-800-841-2900**. Please note that the Qualifying Individual (QI) Program discussed on Page 27 of the 1998 Federal Guide is not available in Massachusetts as of August 25, 1998.

Senior Pharmacy Program: This state program is administered by the Executive Office of Elder Affairs in cooperation with the Division of Medical Assistance. Eligible individuals may receive up to $750 per year for certain prescription drugs. In order to qualify, an individual must meet the following:

- be age 65 or older be a resident of Massachusetts for the last 6 months
- cannot be enrolled in the Medicaid program
- cannot have drug coverage from supplemental insurance policy, HMO plan or other third party payer
- must have a gross annual income no greater than $12,084 per year (couples apply individually)

Please contact the Senior Pharmacy Program at **1-800-953-3305** to receive an application or to find out more about this program. You may also call your local ASAP (Aging Services Access Points).

The CommonHealth Program: This state program provides health care benefits to disabled working adults and disabled children. Call the CommonHealth Program at the Division of Medical Assistance at **1-800-841-2900**.

The Uncompensated Care Pool: Hospitals are required to provide certain people with free care in their facilities. Call your local hospital or the Division of Health Care Finance and Policy at **(617) 988-3100**.

Drug Company Programs: More than 50 drug companies offer **free** prescription drugs to people of all ages whom qualify. Each drug company has different guidelines. To obtain a list of the drugs that are covered and a sample application form, please call Mass Home Care's Elder Line at **1-800-243-4636**.

- **Tips on Shopping for Health Insurance** (Pages 28 to 31 of 1998 Federal Guide)

Decide carefully whether you will pay your Medigap premium on a monthly, quarterly, semi-annual or annual basis, depending on the options that are offered by the Medigap insurer. Many companies offer discounts if consumers pay on other than a monthly basis. Please be aware that after the 30-day free look period, Medigap insurers are only required to return the unearned premium upon your death if you pay your premium on a quarterly, semi-annual or annual basis. However, each Medigap insurer is required to inform applicants regarding whether or not it will return unearned premium if the policy is canceled after the 30-day free look period for a reason other than death and premium is paid on a quarterly, semi-annual or annual basis, so that you will know before you decide how often to make your payments.

Three Standard Massachusetts Medigap Plans: Available in Massachusetts for Coverage Beginning on or After January 1, 1995

Standard Benefits	MEDICARE SUPPLEMENT CORE	MEDICARE SUPPLEMENT 1	MEDICARE SUPPLEMENT 2
Basic Benefits:			
• Part A Hospital Coinsurance	X	X	X
• 365 Lifetime Hospital Days	X	X	X
• First three pints of blood each year	X	X	X
• Part B Medical Coinsurance (generally 20% for all approved services)	X	X	X
Coverage in addition to Medicare for inpatient days in licensed mental health hospitals	60 Days per calendar year less Medicare or plan days	120 Days per benefit period less Medicare or plan days	120 Days per benefit period less Medicare or plan days
Skilled Nursing Facility Coinsurance (Days 21-100)		X	X
Part A Deductible		X	X
Part B Deductible		X	X
Foreign Travel		X	X
Outpatient Prescription Drugs Purchased at Retail Pharmacies: $35 calendar quarter deductible-- Generic drugs: 100% Brand-name drugs: 80%			X

Note: Look at each company's materials to find out what benefits, if any, the company has added to the standard benefits for each plan it offers.