COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

One South Station • Boston, MA 02110 - 2208
(617) 521-7794 • FAX (617) 521-7773
TTY/TDD (617) 521-7490
http://www.state.ma.us/doi

ARGEO PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR

JENNIFER DAVIS CAREY
DIRECTOR, CONSUMER AFFAIRS AND BUSINESS REGULATION

LINDA RUTHARDT
Commissioner of Insurance

Bulletin No. 00-14

To: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts (BCBSMA), Health Maintenance Organizations

From: Linda Ruthardt, Commissioner of Insurance

Re: Certain New Requirements for Coverage of Emergency Services

Date: September 8, 2000

This bulletin is to inform carriers of certain sections relative to the coverage of emergency services as expressed within Chapter 141 of the Acts of 2000 (Chapter 141), which was signed into law on July 21, 2000. Among its provisions, Chapter 141 directs changes to the delivery of managed care in Massachusetts and creates new oversight bureaus within existing state agencies (see Bulletin 00-12). This bulletin addresses those sections of Chapter 141 which create new coverage requirements for emergency services rendered on and after January 1, 2001.

Chapter 141 adds or amends the following sections of Massachusetts statutes: M.G.L. c. 175, § 47U; M.G.L. c. 176A, § 8U; M.G.L. c. 176B, § 4U; M.G.L. c. 176G, § 5; and M.G.L. c. 176I, §§ 1 and 3(b). The effect of these changes is to require insured health plans to provide coverage for emergency services provided to an insured for emergency medical conditions. Emergency medical condition is defined as "a medical condition, whether physical or mental, manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of prompt medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine, to result in placing the health of an insured or another person in serious jeopardy, serious impairment to body function or serious dysfunction of an body organ or part, or with respect to a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. section 1395dd(e)(1)(B)." Such coverage must extend to the point at which an insured has been stabilized for discharge or transfer. Following such stabilization, carriers may require emergency departments to contact a physician designated by the company for authorization of post-stabilization services, but if the opinions of the designated physicians and the attending physician conflict, the opinion of the treating physician prevails and the treatment is to be considered appropriate providing it is consistent with generally accepted principles of professional medical practices and if the services are a covered benefit under the insurance contract. Contracts may require an insured to contact the carrier or an authorized

designee within 48 hours of receiving emergency services, but a request by the attending physician for authorization of post-stabilization services must satisfy any such requirement.

Nothing in Chapter 141 shall be construed to limit retrospective utilization review activities with respect to screening, stabilization and post-stabilization services for the purposes of assessing quality, utilization patterns and coding and billing practices; however, Chapter 141 prohibits retroactive changes to treatment or reimbursement decisions previously made in accordance with the mandate for coverage of emergency services.

All carriers must clearly indicate in all printed materials, including brochures, contracts and policy manuals that a covered person or someone acting on behalf of a covered person may call the local pre-hospital emergency medical system directly by dialing 911 or its local equivalent when confronted by a situation that a prudent layperson would consider an emergency medical condition. Carriers must submit such materials to the Health Unit of the Division to demonstrate compliance with this requirement prior to use.

Carriers are advised to examine the full text of Chapter 141 for a complete review of its provisions. Additional bulletins and regulations are expected to be issued on the other requirements of Chapter 141. Questions about this bulletin should be directed to the Health Unit of the State Rating Bureau, Division of Insurance, (617) 521-7349, or faxed to (617) 521-7773.