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BULLETIN 2012-12

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

FROM: Joseph G. Murphy, Commissioner of Insurance

DATE: December 31, 2012

RE: Coverage of Treatment of Cleft Palate and Cleft Lip for Children

This Bulletin clarifies recent changes to the Massachusetts laws that provide for coverage of treatment of cleft palate and cleft lip for children as expressed within Chapter 234 of the Acts of 2012 ("Chapter 234"). Chapter 234 was signed into law on August 6, 2012 and applies to all policies, contracts and certificates of health insurance that provide coverage of hospital and surgical expense (collectively called "Health Plans") that are delivered, issued or renewed on or after January 1, 2013. Section 3 of Chapter 234 adds M.G.L. c. 175, § 47BB; Section 4 adds M.G.L. c. 176A, § 8EE; Section 5 adds M.G.L. c. 176B § 4EE¹; Section 6 adds M.G.L. c. 176G § 4W; and Section 7 adds M.G.L. c. 176I, § 12.

The effect of these changes is to require that commercial health insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations (collectively called "Carriers") include coverage of treatment of cleft palate and cleft lip for children under the age of 18 and who are covered under the Health Plan. Covered treatment must include medical, dental, oral and facial surgery, surgical management and follow-up care by oral and plastic surgeons, orthodontic treatment and management, preventive and restorative dentistry to ensure good health and adequate dental structures for orthodontic treatment or prosthetic management therapy, speech therapy, audiology and nutrition services, if such services are prescribed by the treating physician or surgeon who certifies that the services are medically necessary and consequent to the treatment of the cleft lip, palate or both.

¹ Section 4 of Chapter 233 of the Acts of 2012 also references a new M.G.L. c. 176B, § 4EE relative to the coverage of hearing aids for children.

Carriers may apply the terms and conditions of the Health Plan, including deductibles, coinsurance, copayments or out-of-pocket limits, to coverage of the treatment of the cleft lip and palate. Managed care plans, as defined in M.G.L. c. 176O, may apply medical necessity review as appropriate.

As Chapter 234 applies to policies that provide coverage of hospital and surgical expense, the provisions of this Act do not apply to stand-alone dental plans. However, as it is likely that the dental and orthodontic services may be covered by both a Health Plan offering hospital and surgical expense coverage and a stand-alone dental plan, a Health Plan or a stand-alone dental plan may elect to coordinate benefits. ~~In such an instance, the order of benefit determination for determining primary and secondary payers, as defined in 211 CMR 38.00, will apply.~~

Carriers must include coverage of the above-noted services within all Health Plans that are delivered, issued or renewed in the Commonwealth on or after January 1, 2013. Carriers should submit revised contracts, policies, certificates and evidences of coverage, or relevant riders, endorsements, or amendments that would be attached to existing documents regarding benefit changes as soon as possible. Form filings should be filed with the Division via SERFF, with the appropriate form filing fees. *See* Division of Insurance Bulletins 2008-08 and 2008-19 for form filing and fee information.

If you have any questions regarding this Bulletin or the filing of materials, please contact Nancy Schwartz, Director of the Bureau of Managed Care, at (617) 521-7347 or nancy.schwartz@state.ma.us.