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# BULLETIN 2013-10

TO: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations Offering or Renewing Insured Health Products in Massachusetts ("Carriers")

FROM: Joseph G. Murphy, Commissioner of Insurance

DATE: December 13, 2013

RE: Carrier Compliance with Transparency with Respect to the Estimated or Maximum Allowed Charge for a Service and Insureds' Out-of-Pocket Health Care Costs

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The Division of Insurance ("Division") is issuing this Bulletin regarding Section 206 of Chapter 224 of the Acts of 2012, which requires Carriers to implement new systems capable of providing individualized information to consumers about potential cost-sharing obligations for any proposed service within 2 working days. Section 206 specifically requires Carriers to "establish a toll-free telephone number and website" whereby consumers can obtain the "estimated or maximum" allowed charge for a service and the estimated out-of-pocket cost that the insured member shall be responsible to pay for a "proposed admission, procedure or service." This requirement will be phased in over time to allow for carriers to build and improve these systems.

While Carriers have been encouraged to be innovative and creative in the development of transparency tools to comply with Chapter 224, the Division has been requested to provide guidance to Carriers so that the transparency protocols developed by individual Carriers will be consistent with the Division's view of the above referenced law. The purpose of this Bulletin is to answer questions posed by carriers and to assist Carriers in complying with Section 206.

*Transparency in Out-of-Pocket Health Care Costs in Massachusetts*

Section 206 requires all managed care health insurance carriers to "establish a toll-free telephone number and website" whereby insured members can obtain the "estimated or maximum allowed charge" and the out-of-pocket cost that the insured member shall be responsible to pay for a "proposed admission, procedure or service." Moreover, Section 206 states that: "the estimated amount" is "based on the information available to the carrier at the time the request is made," but "the insured shall not be required to pay more than the disclosed amounts for the covered health care benefits that were actually provided...." Carriers are permitted, however, to impose cost sharing requirements "for unforeseen services that arise out of the proposed admission, procedure or service," and the Carrier "shall alert the insured that these are estimated costs, and that the actual amount the insured will be responsible to pay may vary due to unforeseen services that arise out of the proposed admission, procedure or service."

*Carrier Compliance with Section 206*

The Division is aware that since the enactment of Chapter 224, Carriers have devoted significant time and resources to establish systems to provide the appropriate information to consumers and have developed toll-free telephone numbers and some have developed websites to present this information. The Division has encouraged Carriers to develop innovative, consumer-friendly approaches that will provide the most relevant and complete information that will assist consumers with their health treatment choices.

While Carriers have been encouraged to be innovative and creative, the Division is issuing this notice to stress that all such systems must be consumer-friendly so that they are easy to use and educational for plan members. The Division expects the following:

- Carriers' systems must provide the anticipated charge and a consumer's anticipated out-of-pocket costs for a "proposed admission, procedure or service," based on the information about the general type of proposed admission, procedure or service available to the carrier at the time the request from a consumer is made.

  Common sense recognizes that in some cases a carrier may not be able to obtain all the information necessary to provide the cost and price data to its member in one single conversation. It may take more than one single communication between consumer and Carrier before the Carrier has enough information to provide the requested cost and price data. Thus, the two day requirement will run at the point where the carrier has obtained adequate information to provide the price and cost data.

  This does not mean that the carrier needs perfect information or diagnostic codes in order to provide price and cost data to the consumer. It does mean that with the member's permission, the Carrier should communicate with providers, if necessary, in order to obtain enough information to provide price and cost data to the consumer. It is anticipated that providers will cooperate with carrier requests to provide such information to consumers and carriers should endeavor to give providers a reasonable time within which to provide the information. If the Carrier needs additional information before price and cost data can be provided, such information shall be obtained as expeditiously as possible and in the least burdensome manner on the consumer.

Information about the procedure, admission or service may be communicated to the Carrier in the form of conversations or discussions between the consumer and the Carrier, or by written or electronic submissions to the Carrier by the consumer. The Carrier shall provide the anticipated charge and the consumer's anticipated out-of-pocket costs based on the information available to the carrier at the time the request is made and the Carrier has adequate information to proceed, and any such information may be based on the allowable charges for the most common type of a certain admission, procedure or service for providers in the consumer's geographic area;

- If a consumer requests the anticipated charge and out-of-pocket costs for a proposed admission, procedure or service for more than one provider, the Carrier must present the different amounts for each requested provider in a clear and easily comparable manner.

- It is anticipated that Carriers will take whatever steps are necessary, such as obtaining consumers' permission, if necessary, to ensure providers can provide necessary information so that Carriers can fulfill their responsibilities under Chapter 224.

- After the relevant price and cost data anticipated above have been provided to a plan member, nothing precludes the consumer from contacting the Carrier to obtain more exact information about a particular admission, service or procedure with respect to a particular provider.

- Carriers may at their discretion also make available to the consumer the ability to obtain an estimate that is based on specific diagnostic, procedure, provider or other codes ("Code Information"), provided, however, that the Carrier shall not require the consumer to obtain such information but rather the Carrier itself, with the consumer's permission, shall obtain such Code Information, where available, from the various providers involved in said admission, procedure or service in the form of conversations or discussions. If, with the consumer's permission, a Carrier obtains specific Code Information from the consumer's health care provider, the Carrier shall provide the anticipated charge and the consumer's anticipated out-of-pocket costs based on that Code Information for the proposed admission, procedure or service to the extent such information is made available to the Carrier by the provider.

- Carriers are advised to inform consumers that any estimates provided to consumers about the anticipated charge and a consumer's anticipated out-of-pocket costs are based on information available to the Carrier at the time the request is made and the carrier has adequate information to proceed. Carriers are advised to inform consumers that actual charges and out-of-pocket costs may be different if the admission, procedure or service is different than the type quoted or if there are unforeseen services that were not included in the quote because they were not apparent based on the information available to the Carrier at the time the request was made;

- A Carrier has two business days to provide an estimate of the consumer's anticipated out-of-pocket costs for a proposed admission, procedure or service from the time the Carrier has been provided with, or has been able to obtain, adequate information about the general type of proposed admission, procedure or service;

- Carriers will establish systems that will support the availability of information for those who are visually impaired or otherwise unable to access information being provided by a Carrier through its website or by telephone, or do not speak English as a first language.

Carriers should bring to the Division's attention obstacles they encounter in their efforts to comply.

If you have any questions about this Bulletin, please contact Kevin P. Beagan, Deputy Commissioner of the Health Care Access Bureau at (617) 521-7323 or Nancy Schwartz, Director of the Bureau of Managed Care at (617) 521-7347.