



COMMONWEALTH OF MASSACHUSETTS
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BULLETIN 2014-01

To: Commercial Health Insurers, Blue Cross and Blue Shield of Massachusetts, Inc. and Health Maintenance Organizations (collectively, "Carriers"); and Provider Organizations that have Entered into or Intend to Enter into Alternative Payment Contracts with Downside Risk

From: Joseph G. Murphy, Commissioner of Insurance

Date: January 17, 2014

Re: Revised Transitional Rules for Carriers and Provider Organizations Relative to the Certification of Risk-Bearing Provider Organizations - **Extended Transition Period**

On November 20, 2012, the Division of Insurance ("Division") issued Bulletin 2012-08, entitled "Transitional Rules for Carriers and Provider Organizations Relative to the Certification of Risk-Bearing Provider Organizations." In Bulletin 2012-08, the Division noted that the new Massachusetts health care payment reform law, Chapter 224 of the Acts of 2012, became effective on November 4, 2012. Chapter 224, in part, creates a new Chapter 176T of the General Laws, under which the Division must annually certify provider organizations that take on certain financial risk through alternative payment contracts with Carriers. The purpose of certification is to require provider organizations entering into these kinds of contracts (known as "Risk-Bearing Provider Organizations") to demonstrate on an annual basis that they do not assume excessive financial risk that could threaten their financial solvency.

In Bulletin 2012-08, the Division noted that it considered the period from November 4, 2012 through December 31, 2013 to be a transition period ("Transition Period") with respect to the issuance of Risk Certificates or Risk Certificate Waivers. During the Transition Period, the Division indicated that provider organizations and Carriers could enter into and continue to participate in alternative payment contracts with Downside Risk if the provider organization applied for and received a transition period waiver from the Division (hereinafter "Transition Period Waiver").

In Bulletin 2012-08, the Division also stated that it would consider provider organizations that had received a Transition Period Waiver to be in compliance with Chapter 176T during the Transition Period. The Division further indicated in Bulletin 2012-08 that it would issue regulations during the Transition Period to define the process that Risk-Bearing Provider Organizations must follow to apply for Risk Certificates or Risk Certificate Waivers after the Transition Period expires.

On December 12, 2013, the Division held a public hearing on its proposed regulation 211 CMR 155.00 concerning Risk-Bearing Provider Organizations. Numerous comments and oral testimony were received by the Division with respect to the proposed regulation. **In order to allow sufficient time to review the comments and testimony received with respect to the proposed regulation of Risk-Bearing Provider Organization, the Division now states that it is extending the Transition Period up through June 30, 2014 (“Extended Transition Period”).**

During this Extended Transition Period, any provider organization that does not hold a Transition Period Waiver but which is seeking to enter into an alternative payment contract with Downside Risk shall submit the Transition Period Waiver application materials to the Division, as further described in Bulletin 2012-08, at least 60 days prior to the proposed effective date of the contract. The Division intends to finalize and promulgate the proposed regulation 211 CMR 155.00 during the Extended Transition Period to further define the process that Risk-Bearing Provider Organizations must follow to apply for Risk Certificates or Risk Certificate Waivers after the Extended Transition Period expires.

As provided for in Bulletin 2012-08, during the Extended Transition Period provider organizations and Carriers may enter into and continue to participate in alternative payment contracts with Downside Risk if the provider organization has already applied for and received or hereinafter applies for and receives a Transition Period Waiver from the Division. **The Division will consider provider organizations that have already received a Transition Period Waiver to be in compliance with Chapter 176T during the Extended Transition Period.** Except as specifically provided for in this Bulletin, all other requirements as set forth in Bulletin 2012-08 will continue to apply.

Any questions regarding this Bulletin should be directed to Kevin P. Beagan, Deputy Commissioner of the Health Care Access Bureau, at (617) 521-7323, or kevin.beagan@state.ma.us.