



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

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BULLETIN 2023-10

To: Commercial Health Insurers,
Commercial Medical Malpractice Insurers,
Blue Cross and Blue Shield of Massachusetts, Inc., and
Health Maintenance Organizations

From: Gary D. Anderson, Commissioner of Insurance 

Date: April 14, 2023

Re: Executive Order No. 609 - Protecting Access to Medication Abortion Services in
the Commonwealth

The Division of Insurance (“Division”) issues this Bulletin 2023-10 to provide guidance to Commercial Health Insurers, Commercial Medical Malpractice Insurers, Blue Cross and Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations regarding the prescribing, dispensing, and administration of mifepristone and misoprostol in Massachusetts in light of Executive Order No. 609 “Protecting Access to Medication Abortion Services in the Commonwealth” issued by Governor Healey on April 10, 2023 and effective on said date (“Executive Order”). Bulletin 2023-10 supplements Bulletins 2023-01 and 2023-02 regarding the implementation of Chapter 127 of the Acts of 2022 (the “2022 Shield Law”). Bulletin 2023-01 relates to insurance coverage for abortion and abortion-related care and specifically notes that ultrasounds, pre-abortion evaluation and examination, and post-abortion care provided in conjunction with a covered surgical or medication-based abortion is considered “abortion-related care” as used in the 2022 Shield Law. Bulletin 2023-02 relates to the requirements for medical malpractice insurance coverage for health care providers offering reproductive health services and legally-protected health care activity as defined in the 2022 Shield Law.

Executive Order No. 609

As stated in the Executive Order, “reproductive health care services” are to include “medication abortion and medical management of miscarriage, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol.” Section 5 of the Executive Order directs the Division to “issue all necessary guidance or bulletins to insurers concerning reproductive

health care services, including but not limited to medical malpractice insurers concerning discrimination against providers or adjusting or calculating a provider's risk classification or premium charges relating to the provider's offer of reproductive health care services in the Commonwealth."

Coverage within Insured Health Plans

The Division issued Bulletin 2023-01 to instruct carriers offering insured health plans regarding required coverage for abortion services and abortion-related care. Consistent with the Executive Order, the Division expects all insured health plans issued or renewed in the Commonwealth to continue to provide coverage for the prescribing, dispensing, and administration of mifepristone and misoprostol in Massachusetts. Carriers offering insured health plans in the Commonwealth are also reminded that Bulletin 2020-26 outlines the coverage requirements for contraceptive drugs, devices and other products established by Chapter 120 of the Acts of 2017 (the "ACCESS Law"). The Division expects that all carriers offering insured health plans will be clear in communications to providers and covered persons that their insured health plans include coverage for the prescribing, dispensing, and administration of mifepristone with misoprostol, or misoprostol alone, without the application of any cost-sharing, except as specified by the 2022 Shield Law and referenced in Bulletin 2023-01."

Medical Malpractice Coverage

The Division issued Bulletin 2023-02 to make clear that medical malpractice insurance carriers would not be permitted to discriminate in coverage or adjust or otherwise calculate a provider's risk classification or premium charges on the basis of their providing reproductive or gender-affirming care, regardless of whether such services are unlawful in another state. This Bulletin 2023-10 is issued to confirm that medical malpractice insurers that issue or renew coverage in Massachusetts will not be permitted to discriminate against providers, nor adjust or calculate a provider's risk classification or premium charges based on the provider's offer of medication abortion and medical management of miscarriage, including but not limited to the use, prescribing, dispensing, or administration of mifepristone or misoprostol in the Commonwealth. The Division expects all medical malpractice insurance carriers to make appropriate changes to their underwriting and rating criteria to ensure that there are not any discriminatory practices related to the prescribing, dispensing, or administration of mifepristone and misoprostol, or misoprostol alone.

Carriers Acting as Administrators

When carriers are acting as administrators for employment-sponsored non-insured health benefit plans, the Division expects carriers to encourage plan sponsors to take steps that are consistent with the provisions of this Bulletin 2023-10.

If you have any questions about this bulletin, please contact Kevin Beagan, Deputy Commissioner of the Division's Health Care Access Bureau at kevin.beagan@mass.gov or at (617) 521-7323.