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BULLETIN NO. 20-11

TO: **ALL HEALTH CARRIERS, DENTAL SERVICE CORPORATIONS, AND DENTAL BENEFITS ORGANIZATIONS ISSUING STANDARD INDIVIDUAL HEALTH AND DENTAL BENEFITS PLANS IN THIS STATE AND ALL LICENSED BROKERS SELLING STANDARD INDIVIDUAL HEALTH AND DENTAL BENEFITS PLANS IN THIS STATE**

FROM: **MARLENE CARIDE, COMMISSIONER**

RE: **GUIDANCE CONCERNING CIRCUMSTANCES RELATED TO THE COVID-19 PANDEMIC (INDIVIDUAL MARKET)**

On March 9, 2020, Governor Phil Murphy declared a state of emergency and public health emergency through the issuance of Executive Order No. 103 to contain the spread of the Coronavirus ("COVID-19") pandemic and, on April 7, 2020, issued Executive Order No. 119 ("EO 103" and "EO 119") declaring that the Public Health Emergency declared in Executive Order No. 103 continues to exist. The Governor subsequently issued Executive Order 104 on March 16, 2020 which required some businesses to close, followed by Executive Order 107 on March 21, 2020 which required all non-essential employees to stay home.

Thus, many businesses have closed and/or substantially reduced the hours and services they offer. For a variety of reasons associated with the pandemic, many persons currently covered under individual health benefits plans are struggling to pay premiums for their individual plans.

On April 9, 2020, Governor Murphy also issued Executive Order No. 123 ("EO 123"). EO 123 directed carriers to refrain from cancelling any policy or contract for nonpayment for a period of time, to exercise appropriate forbearances on collection documentation, to amortize any unpaid payments, and to refrain from seeking recoupment of any unpaid claims paid during the emergency grace period. The Department of Banking and Insurance ("Department") is issuing this Bulletin to provide required guidance to health carriers, dental service corporations and dental benefits organizations ("carriers") to remove possible barriers to coverage and accommodate their covered lives given the circumstances related to the COVID-19 pandemic. The following guidance is effective immediately and continues for the duration of the state of emergency and public health emergency declared pursuant to EO 103 and EO 119. The Department will continue to review this guidance during the duration of EO 119 to ensure consumers receive the intended relief.

Emergency Grace Period Extension

Currently, standard individual health benefits plans include a 31-day grace period, with the grace period increased to 90 days when the individual policyholder is receiving advanced premium tax credits ("APTC"). This bulletin requires an extension of these grace periods for each circumstance as described below.

With respect to individual market policyholders that do not receive APTC, the current 31-day grace period must be extended to a period of at least 60 calendar days. During this period, a carrier may not terminate a policy for nonpayment of premium. A policyholder may elect this emergency grace period to begin retroactively on April 1, 2020 or opt for the grace period to begin on May 1, 2020. During this extended grace period, coverage must remain in force and claims may not be pended.

With respect to individual market policyholders that receive APTCs, currently the federally required grace period is 90 days. If a policyholder fails to timely make payments, issuers must pay all appropriate claims for services rendered to the policyholder during the first month of the three-month grace period and may pend claims for services rendered to the enrollee in the second and third months. The Centers for Medicare and Medicaid Services (CMS) recently issued guidance[1] related to the COVID-19 emergency, which permits carriers to delay this 90-day grace period for one or more months if premiums are not paid. Therefore, the Department is requiring carriers to provide a one-month delay of initiation of the 90-day grace period for any policyholders that have missed a premium payment. The one-month delay may begin retroactively on April 1, 2020 or may begin on May 1, 2020 as the policyholder determines. During this one-month delay, carriers must pay claims. After the one-month delay of the grace period, the currently required 90-day grace period will begin, as provided under federal guidance.

The extended grace periods described above shall apply to policyholders that were in good standing with their insurance carrier on March 1, 2020 and shall apply to premiums due after the initial premium has been made to secure coverage.

After the extended grace period, policyholders must be offered the option of amortizing any unpaid premium over the remaining months of the policy. For example, if 6 months are remaining on the policy, the policyholder must be given the option to pay the unpaid premium in 6 installments in addition to the regular monthly premium.

Carriers are directed that they are not to seek recoupment from policyholders for the cost of claims incurred during this extended grace period. Carriers shall not report late payments to credit reporting agencies, consistent with this guidance, for policyholders taking advantage of COVID-19-related relief. Carriers are further directed to, in addition to posting information on the carrier's website, provide each policyholder with an easily readable written description of the terms of the extended grace period offered pursuant to this guidance, which shall be submitted as an informational filing to the Department at lifehealth@dobi.nj.gov.

[1] https://www.cms.gov/files/document/faqs-payment-and-grace-period-covid-19.pdf

The Department will monitor events as they develop to determine if this emergency grace period must be extended.

Recognition of a Triggering Event

Triggering events are events that allow for a special enrollment period. There are a variety of impacts associated with COVID-19 that will cause a triggering event, including a change in location, a loss of minimum essential coverage, including a loss of employer sponsored coverage or losing coverage you have through a family member. For example, due to the impacts of social distancing and the closing of many businesses, many individuals may lose employer sponsored coverage or coverage they have as a dependent through a family member who has lost coverage.

Additionally, as a result of the State of Emergency, many colleges and universities have prohibited students from living on campus. Therefore, many students have returned to a parent or home in New Jersey. Some of these students had health care coverage, whether individual coverage or otherwise, while they attended school and their coverage either ended or is not accessible, effectively terminating upon the student's move from campus.

As such, carriers are encouraged to review all possible triggering events to determine if an SEP is available to provide access to coverage for impacted individuals. Carriers are reminded that the loss of coverage the student had or the student's move from campus are triggering events such that the student may have a 60-day special enrollment period following the date the student's coverage ended or the campus directed students to leave, during which to purchase an individual policy or be added as a dependent to a parent's existing individual policy.

All carrier changes must be uniformly applied to all individual health benefits plans to which the changes would be applicable. Questions may be directed to the Department's Office of Life and Health at lifehealth@dobi.nj.gov.

April 10, 2020
Date

Marlene Caride
Commissioner

COVID-19 Individual Bulletin/COVID-19