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December 5, 2007

The Honorable Thomas McClain Middleton  
Chair, Senate Finance Committee  
Miller Senate Office Building, 3 East Wing  
11 Bladen Street  
Annapolis, MD 21401-1991

The Honorable Peter A. Hammen  
Chair, House Health and Government Operations Committee  
Lowe House Office Building, Room 161  
84 College Avenue  
Annapolis, MD 21401-1991

Re: Report required by Section 3, Chapter 486, Acts of 2004

Dear Senator Middleton and Delegate Hammen:

Chapters 493 and 736, Acts of 2001, added §15-839 to the Insurance Article. This statute mandates that carriers provide coverage for the surgical treatment of morbid obesity when criteria set forth in the statute are met.

As first enacted, § 15-839(c) of the Insurance Article stated:

An entity subject to this section shall provide coverage for the treatment of morbid obesity through gastric bypass surgery or another surgical method that is:

- (1) recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity; and
- (2) consistent with criteria approved by the National Institutes of Health.

Some insurers and health maintenance organizations interpreted the statute to permit utilization review consistent with criteria approved by the National Institutes of Health. These carriers denied coverage for the service to patients who met the definition of morbid obesity, but

who did not meet all of the medical necessity criteria permitted by the National Institutes of Health. The Insurance Administration determined that subparagraph (2) modified the term "another surgical method" and did not permit the use of additional medical necessity review for patients who met the definition of morbid obesity.

The differing interpretations of the statute came to the attention of the General Assembly. Insurers and health maintenance organizations sought the ability to perform additional utilization review. Chapter 486, Acts of 2004, amended §15-839 of the Insurance Article, created a task force to study utilization review of the surgical treatment of morbid obesity and make recommendations, and required the Insurance Administration to prepare a report to the Senate Finance Committee and to the House Health and Government Operations Committee.

Section 3, Chapter 486, Acts of 2004, which was amended by Chapter 301, Acts of 2005, requires the Insurance Administration to report annually on:

1. The number of complaints filed with the Administration relating to the denial of coverage for the surgical treatment of morbid obesity;
2. The health insurance carrier that denied coverage and the reason given for the denial; and
3. Whether the Administration upheld or reversed the denial of coverage and the basis of the decision.

This report covers the period from December 1, 2006 through November 30, 2007.

The Administration received a total of 12 complaints relating to the denial of coverage for the surgical treatment of morbid obesity during the 12-month reporting period. The Administration did not have jurisdiction over the complaint in 3 of the 12 filed complaints. Of the remaining 9 complaint cases, 6 involved complaints from individuals covered under small group contracts, which are not subject to the mandated benefit for the surgical treatment of morbid obesity.

Only 3 of the complaint cases received during the reporting period involved contracts that are subject to the mandated surgical treatment of morbid obesity. Of these 3 cases, 1 involved a situation where the carrier had not yet made a determination as the carrier was awaiting medical records. After the MIA received the complaint and began the investigation, the carrier received the needed medical records and granted the complainant a referral for a surgical consultation. Of the remaining 2 complaint cases subject to the mandate, one complainant had not met the six-month structured diet program to qualify for the benefit and another complainant needed to exhaust the carrier's internal grievance process before filing a complaint with the MIA.

The entities who issued denials during the reporting period are:

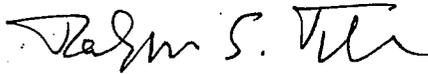
1. Aetna Life Insurance Company
2. CareFirst BlueChoice, Inc.
3. CareFirst of Maryland, Inc.
4. CIGNA Healthcare Mid-Atlantic, Inc.

5. Coventry Health Care of Delaware, Inc.
6. Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
7. MAMSI Life and Health Insurance Company

A chart indicating the carrier, reason for the denial, the Administration's determination, and the basis of the Administration's decision is attached.

Should you have any questions about the information reported, please contact Mr. Louis Butler, Jr., Chief, Appeals & Grievance, at 410-468-2271.

Respectfully submitted,



Ralph S. Tyler  
Insurance Commissioner

Attachment

cc: Linda Stahr, Committee Staff, House Health & Government Operations  
Marie L. Grant, Committee Staff, Senate Finance Committee  
Sarah T. Albert, Department of Legislative Services

# Morbid Obesity Report

December 1, 2006 – November 30, 2007

Case#	Date Entered	Carrier	Primary Reason of Denial by Carrier	Disposition by MIA	Basis for MIA Disposition
14086-A-2007-SSJ-C	1/25/07	CareFirst BlueChoice, Inc.	Reason: Gastric bypass excluded under the small group contract.	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.
14179-A-2007-MM-C	2/21/07	Aetna Life Insurance Co.	Reason: Not meeting criteria, i.e., six-month structured diet program.	No Jurisdiction	The Maryland Insurance Administration did not have jurisdiction over the contract in question.
14206-A-2007-SSJ-C	3/1/07	CareFirst of Maryland, Inc.	Reason: Not meeting criteria, i.e., six-month structured diet program.	No Jurisdiction	The Maryland Insurance Administration did not have jurisdiction over the contract in question.
14175-A-2007-GFP-C	2/21/07	Coventry Health Care of Delaware, Inc.	Reason: Gastric bypass excluded under the small employer group contract.	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.
14410-A-2007-SLC-C	5/8/07	Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	Reason: No formal denial was issued in this case, Medical Director requested complainant's application which was stored offsite in a warehouse, this created a delay in the authorization process.	MIA intervention resulted in complainant being granted a referral for a surgical consultation.	Upon receipt of the complainant's medically underwritten application, the carrier granted a referral for a surgical consultation.
14527-A-2007-LMM-C	6/20/07	MAMSI Life and Health Insurance Company	Reason: Gastric bypass excluded under the small group contract.	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.
14554-A-2007-SLC-C	6/27/07	CareFirst of Maryland, Inc.	Reason: Gastric bypass excluded under the small group contract.	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.

Case#	Date Entered	Carrier	Primary Reason of Denial by Carrier	Disposition by MIA	Basis for MIA Disposition
14568-A-2007-LMM-C	7/2/07	CareFirst BlueChoice, Inc.	Reason: Gastric bypass excluded under the small employer group contract	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.
14663-A-2007-MM-C	8/3/07	CareFirst of Maryland, Inc.	Reason: Gastric bypass excluded under the small employer group contract	Upheld Carrier	The complainant is covered under a small group contract that is not required to cover surgical treatment of morbid obesity.
14660-A-2007-SSJ-C	8/3/07	Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	Reason: Not meeting criteria, i.e., six-month structured diet program.	Upheld Carrier	The complainant did not meet the guidelines established to determine the medically necessity for bariatric surgery.
14865-A-2007-SLC-C	10/11/07	CIGNA Healthcare Mid-Atlantic, Inc.	Reason: Denial of the request for coverage of Bariatric surgery as not meeting criteria.	No Jurisdiction	The Maryland Insurance Administration did not have jurisdiction over the contract in question.
14948-A-2007-SLC-C	11/9/07	CareFirst of Maryland, Inc.	Reason: Not meeting criteria, i.e., six-month structured diet program.	MIA informed member that MIA is unable to investigate complaint because the member had failed to appeal the initial denial to the carrier.	Member must first exhaust carrier's internal appeals process before filing complaint with the Maryland Insurance Administration.