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Governor

BOYD K. RUTHERFORD
Lt. Governor

KATHLEEN A. BIRRANE
Commissioner

GREGORY M. DERWART
Deputy Commissioner

Maryland
INSURANCE ADMINISTRATION

200 St. Paul Place, Suite 2700 Baltimore, Maryland 21202
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

Bulletin 21-22

Date: August 30, 2021

To: All Life & Health Insurers; Nonprofit Health Service Plans; Health Maintenance Organizations and Producers

Re: COVID-19 – Impact of End of the Maryland State of Emergency and Continuing Obligations under the Federal State of Emergency

The state of emergency and catastrophic health emergency (the "SOE") first declared by Governor Hogan on March 5, 2020 terminated at 11:59 p.m. on August 15, 2021. In light of that, and as discussed in Bulletin #21-17, directives previously issued by the Insurance Administration pursuant to powers activated under the Code of Maryland Regulations have been terminated. The federal State of Emergency remains in effect.

The Insurance Administration reminds carriers and providers that pursuant to the Families First Coronavirus Response Act (FFCRA) and Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that health carriers must cover diagnostic testing and services for COVID-19. Such testing, and the evaluation of the individual for the purposes of determining the need for testing, must be covered without cost sharing, prior authorization, or other medical management requirements imposed by the plan or issuer. The FFCRA and the CARES Act do not require coverage of testing for COVID-19 for public health surveillance or employment purposes. However, carriers may not require the presence of symptoms or a recent known or suspected exposure, or otherwise impose medical screening criteria on coverage of tests. The expiration of Maryland's State of Emergency does not alter this. Further details of the federal requirements can be found at https://www.cms.gov/files/document/faqs-part-44.pdf.

In addition, the federal guidance continues to require that COVID-19 vaccinations that have a recommendation from the Advisory Committee on Immunization Practices, and the provider's fee for administration, must be covered without cost-sharing. Providers may bill a patient's health plan for the cost of the administration, and, if the patient is uninsured, the provider may seek payment from the Provider Relief Fund established by HHS pursuant to the federal CARES Act.

In Bulletin 21-09, the Administration activated the powers under COMAR 31.01.02.06A(3) and F to require coverage of the administration of monoclonal antibody therapies, and to require carriers to waive cost-sharing for administration of monoclonal antibody therapy. While this requirement terminated with the end of the SOE, the Administration takes the position that monoclonal antibody therapies are neither investigative nor experimental and cannot be excluded

from coverage on that basis. The Administration requests that carriers continue to voluntarily waive the cost-sharing for administration of monoclonal antibody therapy.

In Bulletin #20-36, the Administration determined that the powers under COMAR 31.01.02.06N remained activated. These powers have now terminated with the end of the SOE.

COMAR 31.01.02.06N required that with respect to an eligible individual, a carrier in the Medicare supplement market may not:

- Deny or condition the issuance or effectiveness of a Medicare supplement policy that is offered and is available for issuance to new enrollees by the issuer;
- Discriminate in the pricing of a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition; and
- Impose an exclusion of benefits based on a preexisting condition under a Medicare supplement policy.

"Eligible individual" is defined in COMAR 31.01.02.03B(13) as an individual who:

- Enrolled in Medicare Part B while enrolled in the Maryland Medical Assistance Program;
- Remained in the Maryland Medical Assistance Program due to a suspension of terminations by the Maryland Medical Assistance Program during a state of emergency, and was not disenrolled until or terminated until at least 6 months following the effective date of enrollment in Part B of Medicare;
- Seeks to enroll in a Medicare supplement policy during the 63-day period following the later of notice of termination or disenrollment or the date of termination from the Maryland Medical Assistance Program; and
- Submits evidence of the date of termination or disenrollment from the Maryland Medical Assistance Program with the application for a Medicare supplement policy.

The Administration requests that insurers that offer Medicare Supplement policies voluntarily extend the period for enrollment to eligible individuals as defined in COMAR 31.01.02.03B(13). The Administration requests that this period be extended to eligible individuals who voluntarily terminate their coverage under Medical Assistance in order to apply for a Medicare Supplement policy prior to or at the end of the federal State of Emergency, and to those who seek to enroll upon termination of extended Medical Assistance at the end of the federal State of Emergency.

Questions about this Bulletin may be directed to the Life & Health Unit of the Maryland Insurance Administration at 410-468-2170.

Kathleen A. Birrane
Commissioner

By: SIGNATURE ON ORIGINAL