COLORADO
Department of Regulatory Agencies
Division of Insurance

Bulletin No. B-4.93

CONTINUITY OF CARE REQUIREMENTS FOR HEALTH BENEFIT PLANS

I. Background and Purpose

All health benefit plans must contain provisions to ensure continuity of care for the policyholder when certain events occur. The purpose of this bulletin is to provide consumers and carriers with the standards and requirements for ensuring continuity of care for health benefit plans, and help ensure carrier compliance with those requirements.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor a final determination of issues or rights.

II. Applicability and Scope

This bulletin is intended to inform both consumers, and carriers[1] that offer health benefit plans, of specific standards and requirements relating to continuity of care required by current Colorado law.[2]

III. Continuity of Care Terms and Definitions

A. "Active course of treatment" means for the purpose of this bulletin:

1. An ongoing course of treatment for a life-threatening condition;

2. An ongoing course of treatment for a serious acute condition, chronic condition, or life-limiting illness;

3. The second or third trimester of pregnancy through the postpartum period; or

4. An ongoing course of treatment for a health condition, whether physical health, mental health, behavioral health, or substance abuse disorder, for which a treating physician or health care provider attests that discontinuing care by that physician or health care provider would worsen the condition or interfere with anticipated outcomes.

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[1] "Carrier" means any entity that provides health coverage in this state, including a franchise insurance plan, a fraternal benefit society, a health maintenance organization, a nonprofit hospital and health service corporation, a sickness and accident insurance company, and any other entity providing a plan of health insurance or health benefits subject to the insurance laws and rules of Colorado and the requirements of the Affordable Care Act" (ACA)

[2] § 10-16-704(9), C.R.S.

B. "Covered person" means, for the purpose of this bulletin, a person entitled to receive benefits or services under a health coverage plan[3].

C. "Health condition" means, for the purpose of this bulletin, an illness, injury, impairment, or condition of a physical, behavioral, or mental health nature, or that involves substance abuse.[4]

D. "Life-threatening health condition" means, for the purpose of this bulletin, a disease or condition for which likelihood of death is probable unless the course of the disease or condition is interrupted.

E. "Network" means, for the purpose of this bulletin, a group of participating providers providing services to a managed care plan. Any subdivision or subgrouping of a network is considered a network if covered individuals are restricted to the subdivision or subgrouping for covered benefits under the Managed care plan.[5]

F. "Primary care" means, for the purpose of this bulletin, health care services for a range of common physical, mental, behavioral health or substance abuse disorder conditions provided by a physician or non-physician primary care professional.

G. "Primary care provider" or "PCP" means, for the purposes of this bulletin, a participating health care professional designated by the carrier to supervise, coordinate or provide initial care or continuing care to a covered person, and who may be required by the carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person. For the purposes of network adequacy measurements, PCPs for adults and children may include, but are not limited to, physicians (Pediatrics, General Practice, Family Medicine, Internal Medicine, Geriatrics, Obstetrics/Gynecology); and physician assistants and nurse practitioners supervised by, or collaborating with, a primary care physician.

H. "Serious acute health condition, chronic health condition, or life-limiting illness" means, for the purpose of this bulletin, a disease or condition requiring complex on-going care which the covered person is currently receiving, including, but not limited to, chemotherapy, post-operative visits or radiation therapy.

IV. Division Position

A. Continuity of Care

Carriers shall ensure sufficient continuity of care provisions for their policyholders, pursuant to § 10-16-704(9)(j), C.R.S., including, but not limited to the following:

1. Pursuant to § 10-16-705(7), C.R.S., a carrier and participating provider shall provide at least sixty (60) days written notice to each other before a provider is removed or

[3] § 10-16-102(15), C.R.S

[4] The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) requires health plans to ensure that the financial requirements and treatment limitations applicable to mental and behavioral health, and to substance abuse disorders, be no more restrictive than those for medical and surgical benefits.

[5] Managed Care Plan is defined at §10-16-102(43), C.R.S.

leaves the network without cause or before the provider contract is non-renewed.

2. When the provider being removed, leaving the network, or is being non-renewed, is a primary care provider, all covered persons who are patients of that primary care provider shall be notified. When the provider either gives or receives the notice pursuant to § 10-16-705(7), C.R.S., and in accordance with paragraph 1. of Section IV.A. of this bulletin, the provider shall supply the carrier with a list of those patients of the provider that are covered by a plan of the carrier. The carrier shall supply the provider with a list of the provider's patients that are covered by the carrier.

3. Irrespective of whether it is for cause or without cause or due to non-renewal of a contract, the carrier shall make a good faith effort to provide written notice of a provider's removal, leaving, or non-renewal from the network within fifteen (15) working days of receipt or issuance of a notice provided in accordance with paragraph 1. of Section IV.A. of this bulletin. This notice shall be provided to all covered persons who are identified as patients by the provider, are on a carrier's patient list for that provider, or have been seen by the provider being removed or leaving the network within the last twelve (12) months.

4. A covered person must have been undergoing treatment, or have been seen at least once in the last twelve (12) months, by the provider being removed or leaving the network for that covered person to be considered in an active course of treatment.

5. When a covered person's provider leaves or is removed from the network, a carrier shall establish reasonable procedures to transition the covered person who is in an active course of treatment to a participating provider in a manner that provides for continuity of care.

6. A carrier shall provide the notices required under paragraphs 1., 2. and 3., of this section, as applicable, and shall make available to the covered person a list of available participating providers who are accepting new patients in the same geographic area and geographic type, as defined in Colorado Insurance Bulletin B-4.90, or a referral to a provider if there is no participating provider available, who are of the same provider or specialty type, and information about how the covered person may request continuity of care as provided under this bulletin.

7. A carrier's transition procedures shall provide that:

   a. Any request for continuity of care shall be made to the carrier by the covered person or the covered person's authorized representative;

   b. Prior to denial, requests for continuity of care shall be reviewed by the carrier's Medical Director after consultation with the treating provider for patients who meet the applicable criteria listed in Section IV.A. of this bulletin and are under the care of a provider who has not been removed or leaving the network for cause.

      Any decisions made with respect to a request for continuity of care shall be subject to the health benefit plan's internal and external grievance and

appeal processes in accordance with applicable state and federal law and regulations;

c. The continuity of care period for covered persons who are in their second or third trimester of pregnancy shall extend through the postpartum period; and

d. The continuity of care period for covered persons who are undergoing an active course of treatment shall extend to the earlier of:

(1) The termination of the course of treatment by the covered person or the treating provider;

(2) Ninety (90) days after the effective date of the provider's departure or termination, unless the Medical Director determines that a longer period is necessary;

(3) The date that care is successfully transitioned to a participating provider;

(4) Benefit limitations under the plan are met or exceeded; or

(5) Care is no longer medically necessary.

8. In addition to the provisions of subparagraph d. of paragraph 7 of Section IV.A, a continuity of care request may only be granted when:

a. The provider agrees in writing to accept the same payment from and abide by the same terms and conditions with respect to the carrier for that patient as provided in the original provider contract, or by the new payment and terms agreed upon and executed between the provider and the carrier; and

b. The provider agrees in writing not to seek any payment from the covered person for any amount for which the covered person would not have been responsible if the provider were still a participating provider.

B. In accordance with § 10-16-705(3), C.R.S., the obligation to hold the patient harmless for services rendered in the provider's capacity as a participating provider survives the termination of the provider contract. The hold harmless obligation does not apply to services rendered after the termination of the provider contract, except to the extent that the in-network relationship is extended to provide continuity of care.

V. Additional Division Resources

Colorado Insurance Bulletin No. B-4.90
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VI. History

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