

Wednesday, September 21, 2011

Áron Boros
Commissioner, Division of Health Care Finance and Policy
2 Boylston Street, 5th floor
Boston, MA 02116-4734

Commissioner Boros,

In recent years it has become common for colleges and universities in Massachusetts to offer Student Health Insurance Plans (SHIPs) with high coinsurance requirements, even for in-network care. Unlike copayments, which represent a fixed dollar cost per medical service, coinsurance requires students to pay a percentage of the total cost of care and can represent an unaffordable cost-barrier for low-income students. Students pursuing a higher education are in particular need of protection from unaffordable cost sharing as they are required by law to obtain insurance coverage, but are statutorily banned from enrolling in Commonwealth Care regardless of their income.

The Division's regulations for Student Health Insurance Programs, 114.6 CMR 3.04 (3), itemize permissible exclusions and limitations, which allow SHIPs to:

- "(a) impose reasonable exclusions and limitations including different benefit levels for in-network and out-of-network providers;
- (b) impose reasonable co-payments and deductibles. The school's Student Health Program must specify the co-pay amount for in-network and out-of-network office, clinic, and hospital visits. The total annual deductible may not exceed \$250 per year.
- (c) exclude charges reimbursable by any other valid and collectible medical insurance plan, provided that any charges in excess of the limits of such other medical insurance plan must be reimbursed as otherwise provided in the school's Student Health Program; and
- (d) exclude hospital or medical care resulting from participation in intercollegiate athletics provided that such care is covered under another health insurance program with equal or greater coverage."

We believe the coinsurance requirements being imposed on students violate the regulation. First, the regulation does not authorize coinsurance. The only cost sharing allowed by the regulation is "reasonable copayments and deductibles." By excluding coinsurance from the description of permitted cost sharing, the regulation does not allow co-insurance. It's an accepted principle of regulatory interpretation that a listing of permitted actions implies the exclusion of related actions that are not listed.

Second, even if DHCFP believes that the regulation authorizes coinsurance, despite it not being mentioned in the regulation, we believe the coinsurance requirements being imposed do not meet a reasonableness test. If deductibles are limited to \$250, surely coinsurance, if it is charged, must be part of that out-of-pocket cap. We would argue that a reasonableness limitation must be considered as applying to coinsurance.

Therefore, we ask the Division to investigate, under 114.6 CMR 3.08, the legality of SHIPs currently

offered at institutions of higher education that require coinsurance payments. We further ask the Division to consider revising the regulations of student health plans to explicitly address the issue of coinsurance, in order to offer clear guidance to colleges and universities. The intent of 114.6 CMR 3.04 (3) is clearly to protect students from unreasonable cost sharing. However, coinsurance has increasingly come to be used to impose high cost sharing outside of the Division's stated limits on copayments and deductibles.

Thank you for your consideration of this matter, and we would look forward to meeting in person to discuss this further,

Signed,

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