

Attachment P

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Insurance Circular Letter No. 15 (2017)**September 21, 2017**

TO: All Insurers Authorized to Write Accident and Health Insurance in New York State, Article 43 Corporations, Health Maintenance Organizations, Student Health Plans Certified Pursuant to Insurance Law § 1124, and Municipal Cooperative Health Benefit Plans

RE: Requirement to Provide Information Under Insurance Law § 3235-a Pertaining to the Early Intervention Program

STATUTORY AND REGULATORY REFERENCES: N.Y. Insurance Law § 3235-a; N.Y. Public Health Law Article 25, Title 2-A and §§ 2541 and 2559

I. Purpose

The purpose of this circular letter is to remind all insurers authorized to write accident and health insurance in New York State, Article 43 corporations, health maintenance organizations, student health plans certified pursuant to Insurance Law § 1124, and municipal cooperative health benefit plans (collectively, “issuers”) that they must provide a municipality¹ or its designees and service coordinators with information on accident and health insurance policy benefits for children participating in the early intervention program (“EIP”) established under New York Public Health Law Article 25, Title 2-A, upon receipt of a request for such information. This information is essential to enable municipalities to administer the EIP efficiently and cost-effectively so that covered children have full access to EIP services. This circular letter is issued to reiterate the obligation issuers have to provide municipalities with the information described below.

II. Discussion

Public Health Law § 2559(3)(a) requires providers of evaluations and EIP services (“EIP providers”) to seek payment for EIP services from all third-party payors, including issuers, prior to claiming payment from a municipality. In accordance with Public Health Law § 2559 (3)(d) and Insurance Law § 3235-a(c), if a child participating in the EIP is also covered by an issuer under an accident and health insurance policy, the municipality, or its designee, and an EIP provider have a right of subrogation for reimbursement of EIP services that are also covered services under the child’s policy.² This right is limited to expenditures the municipality has paid for EIP services or for services the provider has furnished to a child covered by the policy. However, the requirement to seek payment under Public Health Law § 2559(3)(a) does not apply when the payment will be applied to an annual or lifetime limit included in the covered child’s policy. Therefore, it is critical for municipalities, service coordinators, and EIP providers to have complete and accurate information regarding available insurance coverage in order to comply with the law.

The right of subrogation to which a municipality or EIP provider is entitled is valid and enforceable to the extent benefits are available under the policy and is conditioned upon the municipality or provider sending and the issuer receiving a written notice and request for information. Once an issuer receives the written notice and request for information, Insurance Law § 3235-a(c) provides that the issuer must provide the municipality and service coordinator with information on the extent to which benefits are available to the child covered under the policy within 15 days. The service coordinator is then required to provide the information to the EIP provider assigned to provide services to the child.

In order to comply with this provision of the Insurance Law, an issuer should inform the municipality and service coordinator whether it is the issuer of the accident and health insurance policy, is acting as a third-party administrator for another issuer, or is acting as a third-party administrator for a self-funded plan. This specificity is necessary to accurately inform the municipality and service coordinator whether the subrogation provisions in state law apply and whether benefits are available to reimburse the child’s EIP provider.

Finally, since the municipality is financially responsible for the services, not the child’s guardians, and the municipality has a right of subrogation, issuers should pay any reimbursement for early intervention services directly to the EIP provider subrogating under the policy. Issuers should not make payment to the covered child or the child’s family.

III. Conclusion

The Insurance Law and Public Health Law requirements discussed in this circular letter are important tools for municipalities' efforts to control costs associated with EIP, a program that provides vital services to young children. Issuers should therefore fully comply with their obligations under the law and provide the required information in the appropriate form and within the statutory time frame.

Please direct any questions regarding this circular letter to Jeffrey J. Pohl, Supervising Insurance Attorney, by mail at New York State Department of Financial Services, Health Bureau, One Commerce Plaza, 19th Floor, Albany, New York 12257, or by email at jeffrey.pohl@dfs.ny.gov. Please direct any questions regarding EIP to the Bureau of Early Intervention at the Department of Health at (518) 473-7016 or beipub@health.ny.gov.

Very truly yours,

Lisette Johnson
Bureau Chief, Health Bureau

¹ Public Health Law § 2541(13) defines "municipality" as "a county outside the city of New York or the city of New York in the case of a county contained within the city of New York."

² "Accident and health insurance policy" as used herein includes contracts issued by an Article 43 corporation, health maintenance organization, student health plan, and municipal cooperative health benefit plan.

Department of Financial Services

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File a FOIL Request	File a 90-Day Foreclosure Notice	Privacy Policy	Русский (Russian)
Learn about Tenant's Rights	Get Approval for a Title	Site Map	Italiano (Italian)
File an External Appeal	Report Fraud	PDF Reader	Kreyòl ayisyen (Haitian-Creole)
Report Fraud	Independent Adjusters		한국어 (Korean)
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