

IN THE MATTER OF THE EXPERIENCE OF )  
CARE AND HEALTH OUTCOMES (ECHO) ) ORDER  
SURVEY )

THIS MATTER having been opened by the Commissioner of the New Jersey Department of Health and Senior Services ("Department") in accordance with her authority pursuant to N.J.S.A. 26:2S-1 et seq.;

WHEREAS, the Department believes it appropriate to obtain certain data regarding the provision through health maintenance organizations ("HMOs") of behavioral health services covered by the HMOs; and

WHEREAS, the Department believes it necessary and appropriate to obtain information from HMO enrollees regarding their status as users of behavioral health services, their experiences in obtaining behavioral health services, if any, and subsequent satisfaction with the process for obtaining services, the care received, and outcomes thereof; and

WHEREAS, the Department has designed a study, "Experience of Care and Health Outcomes," otherwise referred to as "ECHO" in cooperation with the Mental and Behavioral Health Organization (MBHO) work group, which includes participation by and among HMOs, and is a sub-group of the Health and Data Committee (HeDaC) established pursuant to N.J.A.C. 8:38-7.4 and 8:38A-4.13, to obtain information regarding the experience of HMO members in obtaining behavioral health services and their satisfaction therewith; and

WHEREAS, HMOs are required to comply with Department reporting requirements with respect to quality outcome measures of health care services and independent consumer satisfaction surveys, as specified by N.J.S.A. 26:2S-15; and

WHEREAS, N.J.A.C. 8:38-7.3(b) states that performance and outcome measures shall include population-based and patient-centered indicators of quality of care, appropriateness, access, utilization, and satisfaction; and

WHEREAS, N.J.A.C. 8:38-7.3(b) states that data for these performance measures may include, but not be limited to indicator data collected by HMOs from chart reviews and administrative data bases, member and patient satisfaction surveys, among other items; and

WHEREAS, N.J.A.C. 8:38-7.3(f) states that HMOs shall provide the Department with member lists, upon request, to be used for the selection of samples of membership for surveys; and

WHEREAS, N.J.A.C. 8:38-7.3(g) states that the Department shall ensure the confidentiality of patient-specific information; and

WHEREAS, the Department obtained approval of the design of its study through its Institutional Review Board, consistent with the requirements of federal law regarding protection of human subjects of research with and without consent (45 C.F.R. 46); and

WHEREAS, the Department designed its study to assure specific compliance with federal law regarding the release of medical records for research and audit purposes as set forth at 42 C.F.R. 2.53; and

WHEREAS, the design of the study is intended to maintain the confidentiality of all of the members of the HMOs, whether or not they have requested and/or obtained behavioral health services under the HMOs health benefits plan; and

WHEREAS, the design of the study emphasizes that the study is being performed by the Department, does not specify that the member has been contacted because of the use of behavioral health services under a health benefits plan (indeed, not all members in the sample

will have utilized behavioral health services under their health benefits plan, or at all); and does not specify that the information given to the Department was supplied by the HMO; and

WHEREAS, the Department has repeatedly reminded HMOs individually and through the New Jersey Association of Health Plans that they must submit on or before March 15, 2001, requested information that will allow the Department to perform the ECHO survey;

NOW, THEREFORE, it is hereby Ordered that:

1. CIGNA HealthCare of New Jersey, Inc. (CIGNA) shall comply with the standards and protocols established by the Department's MBHO work group for the ECHO survey no later than April 1, 2001, after which date submission of the information is unacceptable. Submission of the required information shall be made to Emmanuel Noggoh or Natan Szapiro, Office of Research and Development, within the Department.

2. CIGNA shall pay a fine of \$2500 per day for each day that CIGNA has failed to provide the information requested for the Department to conduct the ECHO survey with respect to CIGNA members, as calculated beginning March 16, 2001, through to April 1, 2001, or such earlier date that CIGNA may submit the information.

3. Because CIGNA knows time was and continues to be of the essence, CIGNA shall pay a fine of \$5000 per day for each day that CIGNA fails to submit by April 1, 2001, the information requested for the Department to conduct the ECHO survey with respect to CIGNA's members, to a maximum of 10 days, for a total of \$50,000 for failure to provide the information, which amount shall be additive to the amount accruing pursuant to Paragraph 2 above. CIGNA shall not be afforded any additional opportunity to remedy the violation.

4. Paragraphs 2 and 3 shall become effective 30 days following the date of this Order in accordance with N.J.A.C. 8:38-2.14(c), and payment of the fine in a single lump sum by

check made payable to the New Jersey State Treasurer shall be due from CIGNA on that date, unless CIGNA files with the Department, prior to the end of the 30-day period, a written request for a hearing, and a written request to Stay the Order with respect to Paragraph 2 and 3 until an administrative hearing has been concluded and a final decision is rendered by the Commissioner. A request for a hearing shall be accompanied by a written response to the violations on which the penalty is based (that is, failure to comply with the standards of N.J.A.C. 8:38-7.3 and N.J.S.A. 26:2S-15).

5. If the HMO wishes to request an administrative hearing, the HMO shall submit its request in writing no later than 30 days following the date of this Order to Carole Slimm, Office of Legal and Regulatory Affairs, P.O. Box 360, Trenton, NJ 08625-0360, or by fax at (609) 292-5333.

6. Payment of the fine in accordance with Paragraph 4 above shall be submitted to Sylvia Allen-Ware, Acting Director, Office of Managed Care within the Department.

For: CHRISTINE GRANT, COMMISSIONER  
NEW JERSEY DEPARTMENT OF HEALTH  
AND SENIOR SERVICES

By: \_\_\_\_\_  
MARILYN DAHL  
SENIOR ASSISTANT COMMISSIONER

DATE: March 27, 2001