

## Proposal Section

### **INSURANCE DEPARTMENT OF BANKING AND INSURANCE DIVISION OF INSURANCE**

#### **Notice of Public Hearing New Jersey Small Employer Health Benefits Program Small Employer Health Benefits Program Plan of Operation Proposed Amendments: N.J.A.C. 11:21-2.3, 2.5, 2.6, 2.8, 2.11, 2.13 and 2.17**

**Take notice** that, pursuant to N.J.S.A. 17B:27A-30, the Department of Banking and Insurance (Department) will hold a public hearing regarding amendments proposed by the New Jersey Small Employer Health Benefits (SEH) Program Board of Directors (Board) to the SEH Program's Plan of Operation (Plan), specifically the provisions in N.J.A.C. 11:21-2 cited above. Notice of the proposed amendments was published in the New Jersey Register at 35 N.J.R. 5011(a) on November 3, 2003, as part of the notice of the proposed readoption with amendments, repeals and new rules of certain subchapters in N.J.A.C. 11:21. The proposed amendments include the following:

The Board proposes to delete N.J.A.C. 11:21-2.3(a)6 to remove a reference to the Board's authority to create a standard claim form. While the SEH Act specifically provided the SEH Board with such authority, another act of the Legislature, P.L. 1999, c. 154, the Health Insurance Information Electronic Data Exchange Technology Act (HINT), addressed the electronic submission of claims and the requirement that paper claim forms be standardized. The Department adopted N.J.A.C. 11:22-3 to address these requirements, and carriers operating in the SEH market must be guided by that regulation, as adopted.

The Board proposes to correct a reference at N.J.A.C. 11:21-2.5(a)2vi to the Board's record retention rule from N.J.A.C. 11:21-2.12 to N.J.A.C. 11:21-2.11.

The Board proposes to eliminate at N.J.A.C. 11:21-2.6(b)4ii the requirement that the SEH Policy Forms Committee review Exhibit BB, Part 1 and Part 6 filings because that function has been delegated to staff.

The Board proposes to eliminate at N.J.A.C.11:21-2.6(b)4iii the requirement that the Policy Forms Committee review alternative method of utilization review filings since the Board is proposing to delete the provision that allowed carriers to make such filings. The Board notes that the utilization review provisions include myriad areas of variability and thus carriers have been able to accomplish changes by means of the variable text. Thus, provisions allowing carriers to file an alternative section are not necessary.

The Board proposes amending N.J.A.C. 11:21-2.8(a)3 to set a *de minimis* amount for program assessments beginning in Fiscal Year 2005. In the past, because the administrative costs of the Program have been low, the Board has assessed carriers with small market share for as little as a few pennies.

The Board proposes an amendment to N.J.A.C. 11:21-2.8(c)1 to specifically identify the law that empowers the Board to assess a fee for late assessment payments.

The Board proposes amendments to N.J.A.C. 11:21-2.8(c)3 to remove the reference to an "escrow" account, since deferred funds are placed by the SEH Board in an interest bearing account maintained by the Department of the Treasury. A true escrow of money is a deposit of funds with a neutral third party to be held until the performance of a condition. The maintenance of funds by the Treasury Department does not meet this definition.

The Board proposes to delete N.J.A.C. 11:21-2.11(d), which addresses the Board's mailing list, and to create a new Subchapter 23 to more fully address mailing lists, their uses, and notice procedures.

The Board proposes amending N.J.A.C. 11:21-2.13(c) to delete the phrase that sets forth the time period within which an assessment appeal may be filed.

The Board proposes to delete in its entirety N.J.A.C. 11:21-2.13(d), which contained procedures for filing an assessment appeal.

The Board proposes a new section on assessment appeals at N.J.A.C. 11:21-2.17. The new section addresses appeals of assessments and other matters that might give rise to disputes. The new section includes the time period in which to file an appeal, the information to be provided when requesting a hearing, and the types of action the Board may take following a request for a hearing. The purpose of these changes is to create one standardized set of appeals procedures.

The hearing shall be held by the Department as set forth below:

Date: Thursday, January 22, 2004  
Time: 9:30 A.M.  
Location: Department of Banking and Insurance  
Mary Roebling Building, Room 223  
20 West State Street  
Trenton, New Jersey 08625

The purpose of the hearing is to receive public comment on the proposed amendments to the SEH Program Plan (set forth at N.J.A.C. 11:21-2). The amendments were submitted to the Commissioner on November 14, 2003 pursuant to N.J.S.A. 17B:27A-30. The statute provides that the Plan and any subsequent amendment thereto shall be submitted by the Board to the Commissioner who shall, after notice and a hearing, approve the Plan if it is found to be reasonable and equitable and sufficiently carries out the provisions of N.J.S.A. 17B:27A-17 et seq. The Plan or any subsequent amendments shall become effective after the Commissioner has provided written approval thereof, or shall be deemed approved if not expressly disapproved by the Commissioner in writing within 90 days of receipt by the Commissioner.

The hearing shall be conducted by a hearing officer designated by the Commissioner. A verbatim transcript of the hearing shall be prepared by a certified

stenographic reporter. Interested parties may obtain a copy of the transcript by ordering it directly from the reporter at the hearing or thereafter.

At the hearing, interested parties may present oral comment about the proposed amendments to the Plan set forth herein. Any person intending to speak at the hearing should so advise the Department in writing no later than Friday, January 16, 2004 by submitting a statement of their intent to do so, including their name and the name of the organization they represent, if any, to:

Douglas Wheeler, Assistant Commissioner  
Legislative and Regulatory Affairs  
New Jersey Department of Banking and Insurance  
20 West State Street  
P.O. Box 325  
Trenton, NJ 08625-0325  
Fax: (609) 292-0896  
Email: [legsreqs@dobi.state.nj.us](mailto:legsreqs@dobi.state.nj.us)

Oral testimony will be limited to a maximum of five minutes per person or organization. Persons who did not submit a written intent to speak will be permitted to present comments only after the presentation of testimony from persons who submitted written intent to speak in a timely manner.