

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

Pharmacy Benefits Cards

Proposed New Rules: N.J.A.C. 11:4-55

**Authorized By: Holly C. Bakke, Commissioner, Department of Banking
and Insurance**

Authority: N.J.S.A. 17:1-8.1 and 17B:30-39

Calendar Reference: See Summary below for explanation of exception to the calendar requirements.

Proposal Number: PRN 2002-372

Submit comments by December 20, 2002 to:

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The agency proposal follows:

Summary

P.L. 2001, c. 200 (the "Act"), codified at N.J.S.A. 17B:30-35 et seq., took effect on September 1, 2002.

The Act requires all carriers (insurance companies, health service corporations, hospital service corporations, medical service corporations and health maintenance corporations), multiple employer welfare arrangements, and other providers of health benefits plans that provide pharmacy benefits to

issue cards or other technology containing specified information related to their pharmacy benefits coverage. "Health benefits plans" include plans providing prescription coverage only but does not include the following: (1) accident-only insurance; (2) credit accident and health insurance; (3) Medicare supplement insurance, (4) Medicaid fee-for-service; (5) disability income insurance; (6) long-term care insurance; (7) specified disease insurance; (8) dental or vision care plan; (9) hospital indemnity insurance; (10) coverage issued as a supplement to liability insurance; (11) medical payments under automobile or homeowners insurance; or (12) insurance under which benefits are payable without regard to fault and that are statutorily required to be included in a liability policy or equivalent self-insurance program.

The purpose of the Act is to assure that pharmacists have the essential information they need to fill prescriptions covered by a carrier, multiple employer welfare arrangement or other health benefits plans in an efficient manner. Under the current system, pharmacists may not have vital information about prescription drug coverages.

Proposed N.J.A.C. 11:4-55.1 contains definitions of words and terms used in the subchapter.

Proposed N.J.A.C. 11:4-55.2 would require a carrier, multiple employer welfare arrangement or other provider of a health benefits plan that provides pharmacy benefits to issue, or cause to be issued a card that contains the issuer name, ANSI identification number, processor control number if require by the processor, group number, identification number, insured's name, and a number for providers to call for pharmacy benefits assistance. It also contains

special requirements for “combined cards” that access other benefits in addition to pharmacy benefits.

Proposed N.J.A.C. 11:4-55.3 sets forth the time limits within which a carrier, multiple employer welfare arrangement or other provider of a health benefits plan that provides pharmacy benefits to issue, or cause to be issued, a pharmacy benefits card. These time requirements are as follows: (1) cards shall be issued within 60 days of a health benefits plan becoming effective; (2) cards shall be issued within 60 days of the date on which the primary insured becomes eligible for coverage under an existing health benefits plan; and (3) cards shall be issued within 180 days of a change in the information required to be on the card (if such information is required for proper claims adjustment) but an updated card is not required to be issued more frequently than once in a calendar year.

If a card has not been issued or if the information on the card does not reflect the insured’s current coverage, proposed N.J.A.C. 11:4-55.4 would require a carrier, multiple employer welfare arrangement, or other health benefits provider to provide the primary insured with a telephone number that can be used to obtain the information that would be on the card.

Proposed N.J.A.C. 11:4-55.5 provides that the rules shall apply to policies or contracts issued or renewed after the operative date of the rule. The Department intends to designate the operative date as 90 days subsequent to the adoption date.

The Department proposes these new rules to implement the provisions of this Act.

A 60-day comment period is provided in this proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The Act establishes the requirement for issuing the cards and provides guidance regarding the content and other aspects of the cards. Thus, the main social impact comes from the Act rather than from these proposed new rules.

The purpose of the Act is to assist pharmacists in obtaining information about coverage of prescriptions more efficiently. Pharmacists should receive the essential information they need regarding coverage of prescription drugs through the data on the cards.

Pursuant to statute, the burden of producing the cards will be borne by the regulated industry. The Department's proposed new rules impose no additional burdens beyond those that are required by the Act. The Department believes that the overall social impact of the Act and the rules will be positive.

Economic Impact

As discussed in the Social Impact above, the purpose of the Act is to assist pharmacists in obtaining information about coverage of prescriptions more efficiently. Pharmacists should receive the essential information they need regarding coverage of prescription drugs through the data on the cards. The Department is confident that there will be economic benefits from the efficiencies that will be gained in this regard. As there is no data regarding the

amount of time that pharmacists currently spend in searching for data, the Department cannot estimate the amount of the savings that will be realized by the passage of the act.

Pursuant to statute, the burden of providing the cards will be borne by carriers, multiple employer welfare arrangements or other providers of health benefits plans that provide pharmacy benefits. There was sensitivity to cost consideration in the legislation and in the regulatory proposal. Those who are required to issue cards are not required to replace a card with a new card more frequently than once in a calendar year. If there is no change in the information included on the card, card issuers are not required to reissue pharmacy identification cards with any particular frequency. No specialized requirements (such as for font) are being imposed through regulation. The Department's proposed new rules impose no additional economic burdens beyond those that are contemplated by the Act.

The Department also notes that it is currently a common practice for those subject to the Act to provide plastic cards to their insureds containing information in magnetic form. Thus, the main effect of the act and its implementing regulation is to require uniform, specified information to be included in the cards that are presently being issued by many providers. The Department anticipates that the cost savings realized through the increases efficiency with which prescription drug benefit claims will be processed due to the additional and uniform information being included on the cards will exceed the costs of including the new data on the cards.

Federal Standards Statement

There are no Federal statutes or rules that apply to the subject matter of these rules. Therefore, the proposed new rules do not contain standards or requirements that exceed standards or requirements imposed by Federal law. No further Federal Standards Statement is required.

Jobs Impact

The Department does not believe that the proposed new rules will cause a significant number of jobs to be generated or lost. The Department anticipates that a few jobs may be created in industries making plastic cards, and a few jobs may be lost among pharmacists because of the greater efficiency that will be achieved in claims processing. The Department invites interested parties to submit any data or studies concerning the job impact of the proposed amendment.

Agriculture Industry Impact

Pursuant to N.J.S.A. 4:1C-1 et seq., the Right to Farm Act, and N.J.S.A. 52:14B-4(a)(2), the Administrative Procedure Act, the Department does not expect any agriculture industry impact from the proposed new rules.

Regulatory Flexibility Analysis

Some of the entities that would be affected by the proposed new rules may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Pharmacies are favorably impacted and are not subject to

any new reporting, recordkeeping, or compliance requirement. Therefore, they are not considered further in this analysis. Carriers, multiple employer welfare arrangements and other health providers subject to the Act are required to produce pharmacy benefit cards containing the required information. This is a compliance burden.

The costs of compliance are discussed in the above Economic Impact. Since those who are providing the benefits are already issuing cards there should be no need for any outside consultants or professional services.

The goal of the Act and these implementing rules is to specify a uniform body of information that would be made available to pharmacists filling prescriptions under pharmaceutical benefits plans. Because of the need for uniformity in the information that is provided to pharmacists, the Department makes no distinction between small businesses and other businesses that provide prescription drug benefits in these proposed new rules.

Smart Growth Impact

The proposed new rules have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment plan.

Full text of the proposed new rules follows:

SUBCHAPTER 55. PHARMACY CARDS

11:4-55.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“ANSI identification number” means the American National Standards Institute (ANSI) International ID Number assigned to the administrator or pharmacy benefits manager of the health benefits plan. The label for this number is “RxBIN.”

“Card” means a card or other technology that functions like a card.

“Carrier” means an insurance company, health service corporation, hospital service corporation, medical service corporation or health maintenance organization authorized to issue health benefits plans in this State.

“Comprehensive pharmacy benefits” means benefits covering prescription drugs on an outpatient basis, irrespective of whether the benefits are provided by a network of participating pharmacies, and irrespective of whether the benefits are in the form of the prescription drugs themselves or are in the form of reimbursement for the cost of the prescription drugs. “Comprehensive pharmacy benefits” shall not mean benefits limited to prescription drugs provided in connection with mandated benefits for specific diseases or conditions.

“Group number” means the group number for the insured. The label for this number is “RxGRP.”

“Health benefits plan” means:

1. A health benefits plan that is delivered or issued for delivery in this State by or through a carrier;

2. A plan provided by a multiple employer welfare arrangement;

or

3. A plan provided by another benefit arrangement, to the extent permitted by the "Employee Retirement Income Security Act of 1974," Pub. L. 93-406 (29 U.S.C. §§ 1001 et seq.), or by any waiver of or other exception to that act provided under Federal law or regulation.

"Health benefits plan" shall include prescription-only coverage.

"Health benefits plan" shall not mean:

1. Accident-only insurance;
2. Credit accident and health insurance;
3. Medicare supplement insurance,
4. Medicaid fee-for-service;
5. Disability income insurance;
6. Long-term care insurance;
7. Specified disease insurance;
8. Dental or vision care plan;
9. Hospital indemnity insurance;
10. Coverage issued as a supplement to liability insurance;
11. Medical payments under automobile or homeowners insurance; or
12. Insurance under which benefits are payable without regard to fault and that are statutorily required to be included in a liability policy or equivalent self-insurance program.

“Identification number” or “ID” means the identification number for the insured. This number shall be labeled “ID,” except that, in the case of a combined card where the identification number for pharmacy benefits differs from the identification number for other benefits, the number shall be labeled “RxID.”

“Insured’s name” means the name of the primary insured or, if additional cards are issued to another covered person or persons, “insured’s name” shall, at the option of the carrier, mean the name of the other covered person or persons.

“Issuer name” means name of the sponsor, carrier, or administrator of the plan (which name may be abbreviated), or the name of a plan of benefits.

“Primary insured” means, in the case of group or individual coverage covering more than one person based on their relationship to an eligible person, such eligible person.

“Processor control number” means the processor control number assigned by the administrator or pharmacy benefits manager. The label for this number is “RxPCN.”

11:4-55.2 Requirement to issue cards.

(a) Each carrier, multiple employer welfare arrangement, or other provider of a health benefits plan that provides pharmacy benefits shall issue, or cause to be issued, a card satisfying the requirements of N.J.S.A. 17B:30-35 et seq. and this section. The carrier or other provider may contract with an administrator, agent, contractor or other vendor to issue the cards; however,

the carrier or other provider shall remain responsible for the proper issuance of the cards and for their compliance with the law.

(b) A card may be issued for pharmacy benefits only (“stand alone card”) or may be issued for pharmacy benefits in combination with other benefits (“combined card”).

(c) The card shall contain the following information:

1. The issuer name;
2. The ANSI identification number (properly labeled);
3. The processor control number (properly labeled), if required by the party adjudicating claims, directing payment of claims or directing the adjudication of claims;
4. The group number (properly labeled);
5. An identification number (properly labeled);
6. The insured’s name; and
7. A number for providers to call for pharmacy benefits assistance.

(d) Where information is required to be “properly labeled,” the label (for example, “RxBIN”) shall be placed close enough to the information so as to identify that information uniquely.

(e) If a combined card is used, the issuer name for pharmacy benefits shall be:

1. The same as for other benefits; or
2. Clearly distinguishable from the issuer name for other benefits.

(f) The identification number, if a combined card is used, shall be the same for pharmacy benefits and all other benefits, or the ID for pharmacy benefits shall be labeled “RxID” rather than “ID.”

11:4-55.3 Time limits

(a) A carrier, multiple employer welfare arrangement, or health benefits provider shall provide each primary insured a new pharmacy identification card within 60 days of a health benefits plan becoming effective.

(b) A card shall be issued to the primary insured within 60 days of the primary insured initially becoming eligible for coverage under an existing health benefits plan (for example, new employee).

(c) A carrier, multiple employer welfare arrangement, or other health benefits provider shall provide each primary insured a new pharmacy identification card within a reasonable time, not to exceed 180 days, after a change in the insured’s coverage that changes the information required to be on the card, if the issuance of a new card is required for proper claims adjustment. However, the carrier, multiple employer welfare arrangement, or other health benefits provider shall not be required to issue a new card reflecting changes in information more than once in a calendar year.

11:4-55.4 Access to information

If a card has not been issued, or if the information on a card does not reflect the insured’s current coverage, the carrier, multiple employer welfare arrangement or other health benefits provider shall provide the primary

insured with a telephone number that can be used to obtain the information that would be on the card.

11:4-55.5 Operate date

This subchapter shall apply to policies or contracts issued or renewed after the operative date of the rule.