

BANKING AND INSURANCE

DIVISION OF INSURANCE

OFFICE OF LIFE AND HEALTH

Maternity Installment Payments

Proposed New Rules: N.J.A.C. 11:22-9

Authorized By: Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-14 and 17:1-15(e); and P.L. 2009, c. 113

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

Proposal Number: PRN 2011-025.

Submit comments by March 19, 2011 to:

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The agency proposal follows:

Summary

Most obstetrical providers do not receive reimbursement from health insurers for maternity services rendered during a patient's pregnancy until after delivery of a baby rather than during the term of a pregnancy. P.L. 2009, c. 113, which was approved on August 12, 2009, and became effective on September 1, 2010, requires health insurance plans that provide benefits for maternity services to provide for reimbursement to obstetrical providers licensed in New Jersey in installments for maternity services rendered during the term of a covered person's pregnancy. These proposed new rules implement P.L. 2009, c. 113 by establishing standards and procedures for these installment payments.

Proposed N.J.A.C. 11:22-9.1 sets forth the purpose and scope of the new rules.

Proposed N.J.A.C. 11:22-9.2 contains definitions of terms used in the new rules.

Proposed N.J.A.C. 11:22-9.3 sets forth certain general requirements related to installment payments for maternity services, and includes provisions addressing an obstetrical provider's ability to elect whether to be reimbursed on an installment or global basis and the terms of such election.

Proposed N.J.A.C. 11:22-9.4 establishes carrier requirements for global reimbursement for maternity services. This section requires carriers to accept billings from providers under the global routine maternity care Current Procedural Terminology (CPT) codes most current to the date of billing for services as described in this section.

Proposed N.J.A.C. 11:22-9.5 establishes carrier requirements for installment reimbursement for maternity services. This section requires carriers to remit at least three equal installment payments to a provider during a pregnancy, after the 12th and

28th weeks and following delivery. This section also requires carriers to accept billings under the CPT codes most current to the date of billing for services indicating a request for installment payments prior to delivery and following delivery, and sets forth the appropriate CPT codes for those billings. This section further prohibits the total of installment payments received by a provider to be less than the amount the provider would have received under a global payment system. Finally, this section permits a carrier to retroactively make adjustments to installment payments in cases where the provider has received any installment payment for services he or she did not actually provide.

Proposed N.J.A.C. 11:22-9.6 establishes the operative date for the new rules to be six months after the effective date of the rules for pregnancies beginning on or after that date.

A 60-day comment period is provided for the notice of 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

P.L. 2009, c. 113 requires carriers to permit obstetrical providers to be reimbursed in installments for maternity services. The proposed new rules merely implement P.L. 2009, c. 113 and, therefore, do not directly impose any obligations on either carriers or providers. Nevertheless, both carriers and providers may be impacted by complying with the new rules. Carriers may be somewhat negatively impacted in the short term because they will be required to modify their systems to accommodate

installment payments. Providers will be reimbursed for maternity services as those services are provided rather than payment being delayed until after delivery or, in cases where a provider does not provide services through delivery, until the termination of the provider's services. The Department anticipates that this will have a positive impact on providers. The new rules may also favorably impact providers' relationships with their maternity patients by ensuring providers that they will be reimbursed as services are provided to their patients rather than reimbursement being deferred.

Economic Impact

The proposed rules will positively impact the cash flow of obstetrical providers who elect to be paid for their services in installments rather than having payment deferred until the delivery of a child. There will be a moderate short-term negative impact on carriers who will bear the expense of reconfiguring their processes and systems to accommodate payments in installments. However, it is anticipated that any initial costs imposed on carriers will be outweighed by the benefits attained by providers as discussed in these impact statements.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal standards or requirements applicable to the proposed new rules.

Jobs Impact

The Department does not believe that these new rules will cause any jobs to be generated or lost. The Department invites interested parties to submit any data or

studies concerning the jobs impact of the new rules, together with their written comments on other aspects of the new rules.

Agriculture Industry Impact

The Department does not expect the proposed new rules to have any impact upon the State agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules implement P.L. 2009, c. 113, which requires carriers, at the provider's option, to reimburse obstetrical providers in installments for maternity services. Compliance with these rules will impose certain reporting and/or recordkeeping requirements on carriers and providers, some of whom may be "small business" as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Accordingly, the Department is providing a Regulatory Flexibility Analysis.

The new rules permit providers to elect, in writing, whether to be reimbursed for maternity services on an installment or global basis, and to opt out of their initial election at any time during the first year. Carriers will be required to provide notice to providers of this election and to maintain records regarding providers' elections. For providers electing installment reimbursement, carriers will be required to maintain additional records and to distribute additional payments for each installment. Likewise, providers electing installment payments will be required to submit additional claims to carriers, and maintain additional records, for each installment.

The Department anticipates that carriers and providers will incur some additional reporting and/or recordkeeping regarding installment payments for maternity services. The Department is uncertain as to the actual costs a small business might incur in complying with these rules, but it is unlikely that carriers or providers will need to engage additional professional services in order to comply with the new rules. The Department does not provide regulatory flexibility to carriers that may be "small businesses" pursuant to N.J.S.A. 52:14B-16 et seq. The standards and procedures set forth in these new rules must be applied consistently to all carriers offering health benefits plans that provide benefits for maternity services. Obstetrical providers providing such services are entitled to be reimbursed in installments rather than globally pursuant to P.L. 2009, c. 113. Accordingly, no differentiation based on business size is provided.

Smart Growth Impact

The proposed new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed new rules will not have an impact on housing affordability because the proposed new rules address payment by health insurance carriers in installments to New Jersey licensed obstetrical providers for maternity services rendered during the term of a covered person's pregnancy.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that these new rules would evoke a change in the housing production in Planning Areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed new rules address payment by health insurance carriers in installments to New Jersey licensed obstetrical providers for maternity services rendered during the term of a covered person's pregnancy.

Full text of the proposed new rules follows:

SUBCHAPTER 9. MATERNITY INSTALLMENT PAYMENTS

11:22-9.1 Purpose and scope

(a) The purpose of this subchapter is to implement P.L. 2009, c. 113 by establishing a process whereby, if requested by such a provider, a health insurance carrier shall reimburse a New Jersey licensed obstetrical provider in installments for maternity services rendered by the provider during the term of a covered person's pregnancy.

(b) This subchapter shall apply to all health benefits plans that provide benefits for maternity services and that are delivered, issued, executed or renewed in this State.

11:22-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the meanings as set forth below unless the context clearly indicates otherwise:

"CPT" means the American Medical Association's Current Procedural Terminology (CPT) maintained by the American Medical Association (AMA). CPT is a code set that

accurately describes medical, surgical, and diagnostic services and is designed to communicate uniform information about medical services and procedures among physicians, coders, patients, accreditation organizations, and payers for administrative, financial, and analytical purposes.

"Health benefits plan" means an individual or group contract which pays hospital and medical expense benefits or provides hospital and medical services, and is delivered or issued for delivery in this State by or through a carrier.

"Health insurance carrier" or "carrier" means an insurance company, medical service corporation, health service corporation and health maintenance organization authorized to issue health benefits plans in this State.

"Maternity services" means prenatal care (office visits and screening tests), labor and delivery services (including hospitalization) and postpartum/postnatal care (routine hospital and outpatient visits following delivery).

"Obstetrical provider" or "provider" means an obstetrician/gynecologist licensed by the State Board of Medical Examiners or a midwife licensed by the State Board of Medical Examiners as a certified midwife or a certified nurse midwife.

11:22-9.3 General requirements

(a) Obstetrical providers may elect to be reimbursed for maternity services rendered to a covered person on either a global basis (one payment for all services rendered during the term of a covered person's pregnancy for antepartum care,

delivery and postpartum care) or on an installment basis (more than one payment for services rendered during the term of a covered person's pregnancy).

(b) Carriers shall permit providers to elect at least annually whether to be reimbursed for maternity services on a global or an installment basis. Such election shall be made in writing and take effect with respect to pregnancies beginning on or after 30 days following receipt of notice by the carrier. Written notice of the provider's election may be effectuated via mail, fax or e-mail.

(c) Providers shall be permitted to opt out of their initial election to be reimbursed in installments at any time within the first year following that election and annually thereafter for any given provider taxpayer identification number. Carriers may require that the election change be in writing. Carriers shall not defer application of the change more than 30 days following receipt of the election change.

(d) Any such election as described in (b) or (c) above shall be made with respect to all providers billing under the same provider identification number unless otherwise agreed to by the provider and the carrier.

(e) In the absence of an installment election, carriers shall reimburse providers billing for services rendered on a global basis based on billings actually received, subject to the carrier's reasonable requests for medical records and other documentation necessary to establish the appropriate payment.

(a) For providers electing to be reimbursed for maternity services on a global basis, carriers shall accept billings under the CPT codes most current to the date of billing for services as published by the AMA for global routine maternity care. The global routine maternity care CPT codes as of (the effective date of these rules) are the following:

1. 59400 – Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care;
2. 59510 – Routine obstetric care, including antepartum care, cesarean delivery, and postpartum care;
3. 59610 – Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care, after previous cesarean delivery; and
4. 59618 – Routine obstetric care including antepartum care, cesarean delivery, and postpartum care, following attempted vaginal delivery after previous cesarean delivery.

11:22-9.5 Installment reimbursement

(a) For providers electing to be reimbursed for maternity services on an installment basis, carriers shall remit at least three equal installment payments during the term of the covered person's pregnancy as follows:

1. Following the 12th week of pregnancy;
2. Following the 28th week of pregnancy; and

3. Following delivery.

(b) Carriers shall accept billings under the CPT codes most current to the date of billing for services established by the American Medical Association indicating a request for installment payments prior to delivery. The CPT codes as of (the effective date of these rules) are as follows:

1. 59425 – Antepartum care only (4-6 visits); and
2. 59426 – Antepartum care only (7 or more visits).

(c) Carriers shall accept billings under the CPT codes most current to the date of billing for services established by the AMA for a final installment payment following delivery. The CPT codes for such services as of (the effective date of these rules) include the following:

1. 59410 – Vaginal delivery only (with or without episiotomy and/or forceps); including postpartum care;
2. 59515 – Cesarean delivery only; including postpartum care;
3. 59614 – Vaginal delivery only, after previous cesarean delivery (with or without episiotomy and/or forceps); including postpartum care; and
4. 59622 – Cesarean delivery, following attempted vaginal delivery after previous cesarean delivery; including postpartum care.

(d) The total of all installment payments received by an obstetrical provider shall not be less than the amount the provider would have received under the carrier's global payment for routine maternity care.

(e) If an obstetrical provider receives one or more installment payments from a carrier that include payment for services not actually rendered by the provider (for example, in the event the pregnancy is terminated or the delivery is performed by a different provider), the carrier may retroactively adjust the installment payments to the prevailing rates applicable to the services actually rendered.

11:22-9.6 Operative date

This subchapter shall apply to pregnancies beginning on or after (6 months following the effective date of this subchapter).