

# STATE OF NEBRASKA

DEPARTMENT OF INSURANCE  
Jim Wagner  
Director



February 22, 2000  
CB-97

Mike Johanns  
Governor

## BULLETIN

**SUBJECT:** NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996 and  
WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

A federal law entitled the Newborns' and Mothers' Health Protection Act of 1996, sets forth standards for health insurance coverage for the length of post-delivery inpatient care that must be provided to mothers and newborn children. This Act requires the states to enforce the health care standards of the federal law. This Act amended the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). If a state fails to substantially enforce the standards set forth in the Newborns' and Mothers' Health Protection Act of 1996 then the standards will be enforced by the Secretary of Health and Human Services. Therefore, all group and individual health insurance policies and health maintenance organization contracts filed with the department must comply with the standards set forth in the Newborns' and Mothers' Health Protection Act of 1996. Policies and contracts that do not comply with this Act will be deemed to be unjust, unfair and inequitable. Health insurance policies and certificates that are filed with the Nebraska Department of Insurance that do not comply with the Newborns' and Mothers' Health Protection Act of 1996 will not be approved pursuant to Neb. Rev. Stat. § 44-710 and Neb. Rev. Stat. § 44-32,129. When the Market Conduct Division conducts an examination of an insurer or HMO, it will review policies and contracts of insurers and HMOs for compliance with this Act.

The Newborns' and Mothers' Health Protection Act of 1996, prohibits group and individual health insurance policies issued, sold, renewed, and offered for sale in Nebraska from restricting benefits for any hospital length of stay for the mother or newborn child in connection with childbirth; (1) following a normal vaginal delivery, to less than 48 hours, and (2) following a cesarean section, to less than 96 hours. Health insurance policies may not require that a provider obtain authorization from the health insurance plan or the issuer for prescribing any such length of stay. Regardless of these standards an attending health care provider may, in consultation with the mother, discharge the mother or newborn child prior to the expiration of such minimum length of stay.

Further, a health insurer or health maintenance organization may not:

- (1) deny to the mother or newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely to avoid providing such length of stay coverage;

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- (2) Provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum coverage;
- (3) Provide monetary incentives to an attending medical provider to induce such provider to provide care inconsistent with such length of stay coverage;
- (4) Require a mother to give birth in a hospital; or
- (5) Restrict benefits for any portion of a period within a hospital length of stay described in this bulletin.

Health insurers and HMOs shall provide notice to each policyholder regarding the coverage required by the Act. Deductibles, coinsurance, or other cost sharing may be imposed on the hospital length of stay benefit.

#### WOMEN'S HEALTH AND CANCER RIGHTS ACT OF 1998

The Women's Health and Cancer Rights Act of 1998 ("WHCRA") requires all group and individual health insurance plans and Health Maintenance Organizations that provide coverage for medical and surgical benefits for a mastectomy to provide coverage for breast reconstructive surgery. The following coverage must be provided: (1) reconstruction of the breast on which the mastectomy was performed; (2) surgery and reconstruction of the other breast to produce a symmetrical appearance, and (3) prostheses and treatment of physical complications at all stages of the mastectomy, including lymphedemas. Deductibles and coinsurance may be applied to this coverage. WHCRA also prohibits health insurers from providing incentives to an attending provider to provide care inconsistent with WHCRA. Health insurers must notify policyholders of their rights under WHCRA upon enrollment and annually thereafter. Health insurance policies and Health Maintenance Organization contracts issued or renewed in Nebraska must comply with WHCRA and the Nebraska Department of Insurance will enforce the requirements of this Act through review of policy forms and market conduct examination. Health insurance policies and certificates that are filed with the Nebraska Department of Insurance that do not comply with WHCRA will not be approved pursuant to Neb. Rev. Stat. § 44-710 and Neb. Rev. Stat. § 44-32,129.

The following health insurance policies are not subject to the requirements of these Acts:

- (1) coverage only for accident, or disability income insurance, or any combination thereof;
- (2) Medicare supplement insurance;
- (3) Coverage issued as a supplement to liability insurance;

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- (4) Liability insurance, including general liability insurance and automobile liability insurance;
- (5) Workers' compensation or similar insurance;
- (6) Automobile medical payment insurance;
- (7) Credit-only, dental-only, or vision-only insurance;
- (8) Coverage for onsite medical clinics;
- (9) Coverage for a specified disease or illness;
- (10) Hospital or fixed indemnity insurance;
- (11) Short-term limited duration insurance; and
- (12) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.



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