



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To recommend that the District of Columbia adopt all sections of the NAIC Health Benefit Plan Network Access and Adequacy Model Act including network sufficiency, continuity of care, provider directory, and surprise out-of-network medical bill protections modified as necessary to meet the unique needs of the District.

WHEREAS, the Health Benefit Exchange Authority Establishment Act of 2011, effective March 4, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*) (“Act”) created the District of Columbia Health Benefit Exchange Authority (“HBX”), an independent authority of the Government of the District of Columbia, and its governing Executive Board;

WHEREAS, §1311(c) of the Affordable Care Act of 2010 (“ACA”) (P.L. 111-148 & P.L. 111-152) and 45 CFR Part 156, Subpart C establish minimum certification standards for Qualified Health Plans (QHPs) offering coverage on American Health Benefit Exchanges;

WHEREAS, §5 of the Act (D.C. Official Code §31-3171.04(a)(7)) authorizes the Authority to implement procedures for certification, recertification, and decertification of QHP issuers;

WHEREAS, the Executive Board established a Network Adequacy Workgroup, composed of insurance carriers, small businesses, brokers, health care providers, and consumer advocates, to review existing network adequacy requirements and recommend any new standards/changes if necessary;

WHEREAS, the Network Adequacy Workgroup presented recommendations to the Board on March 7, 2013 and the Executive Board adopted the recommendations in a resolution on March 13, 2013;

WHEREAS, the Issuer Certification Process recommendations require the Executive Board to revisit these standards using additional data and experience gained;

WHEREAS, the Executive Board Insurance Market Working Committee met in five public meetings from October 2014 through January 2015 on the topic of qualified health plan certification requirements, including network adequacy, hearing from stakeholders, experts in the field, HBX and Department of Insurance, Securities and Banking staff;

WHEREAS, the Executive Board Insurance Market Working Committee recommended and the Executive Board adopted updated network adequacy certification requirements on February 9, 2015;

WHEREAS, November 2015, the National Association of Insurance Commissioners (NAIC) unanimously approved the Health Benefit Plan Network Access and Adequacy Model Act (NAIC Network Adequacy Model Act), Model #74 after a year of work through various NAIC subgroups;

WHEREAS, March 8, 2016, the Department of Health & Human Services promulgated a final rulemaking that includes limited network adequacy provisions and notes its “expectation that all States, including the FFE States, will actively implement these [NAIC Network Adequacy Model Act] provisions”;

WHEREAS, on June 6, 2016, the Executive Board Insurance Market Committee met to review the topic Network Adequacy, hearing from stakeholders, experts in the field, HBX staff, Stephen Taylor, Commissioner of the Department of Insurance, Securities and Banking, and Department of Insurance, Securities and Banking staff, on the NAIC Network Adequacy Model Act, federal, local laws, and other state laws on network sufficiency, provider directory accuracy, and surprise medical bills and asked the Standing Advisory Board for a recommendation on network adequacy for the HBX Executive Board;

WHEREAS, on June 30, 2016, the Standing Advisory Board met to discuss the topic of network adequacy, hearing from stakeholders, experts in the field, the public, and HBX staff on the NAIC Network Adequacy Model Act, federal, local laws, and other state laws on network sufficiency, provider directory accuracy, and surprise medical bills and to consider a recommendation for the HBX Executive Board as requested by the Insurance Market Committee;

WHEREAS, on July 26, 2016, the Standing Advisory Board considered, gave an opportunity for public comment, and passed a consensus recommendation on network adequacy;

NOW, THEREFORE, BE IT RESOLVED that the Executive Board hereby adopts the consensus recommendation from the Standing Advisory Board that recommends the District of Columbia enact all sections of the NAIC Network Adequacy Model Act, including network sufficiency, continuity of care, provider directory, and surprise out-of-network bill protections, modified as necessary to meet the unique needs of the District, with further detail as follows:

I. Network Sufficiency

- 1) The District of Columbia shall adopt quantitative and, if appropriate, non-quantitative criteria to evaluate the network sufficiency of health benefit plans (based on Maryland HB 1318, enacted May 2016). Maryland HB 1318 requires the Commissioner, in consultation with stakeholders, to adopt regulations that may take the following into consideration:
 - a. Geographic accessibility of primary care and specialty providers, including mental health and substance use disorder providers;
 - b. Waiting times for an appointment with participating primary care and specialty providers, including mental health and substance use disorder providers;
 - c. Primary care provider- to-enrollee ratios;
 - d. Provider-to-enrollee ratios, by specialty;
 - e. Geographic variation and population dispersion;

- f. Hours of operation;
- g. The ability of the network to meet the needs of enrollees, which may include:
 - i. Low-income individuals
 - ii. Adults and children with:
 - 1. Serious, chronic, or complex health conditions; or
 - 2. Physical or mental disabilities; and
 - iii. Individuals with limited English proficiency or illiteracy;
- h. Other health care service delivery system options, including telemedicine, telehealth, mobile clinics, and centers of excellence;
- i. The volume of technological and specialty care services available to serve the needs of enrollees requiring technologically advanced or specialty care services;
- j. Any standards adopted by the federal Centers for Medicare & Medicaid Services or used by the Federally Facilitated Marketplace; and
- k. Any standards adopted by another state.

II. Provider Directory Accuracy

- 1) As is required currently for plans sold on DC Health Link under a resolution of the Executive Board enacted January 1, 2015, all District-licensed carriers shall be required to prominently post a phone number or email address on their online and print provider directories (not necessarily a dedicated phone number or email address) for consumers to report inaccurate provider directory information. Carriers will be required, within 30 days, to validate reports that directories are inaccurate or incomplete and, when appropriate, to correct the provider information. The carrier will be required to maintain a log of consumer reported provider directory complaints that would be accessible to DISB or HBX upon request.
- 2) The Commissioner shall review the NAIC Model Act, including drafting notes, and requirements implemented in other states, and adopt policies to ensure that carriers' provider directories are accurate and easily accessible for District residents.

III. Surprise Medical Bills

Emergency Protection: As in the NAIC Model Act, insurance enrollees should be protected from any costs beyond in-network cost-sharing in emergency situations, including if they receive services from out-of-network providers. Consumers should never face surprise bills in emergencies.

Non-Emergency Protection: Insurance enrollees should be protected from any costs beyond in-network cost-sharing when the enrollee receives care in an in-network facility and does not have the ability and opportunity to choose an in-network provider at the facility who is available to treat the enrollee.

Other states, such as Florida and New York, have implemented laws that may provide instruction to the District in implementing these protections.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this 8th day of August, 2016, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

Khalid Pitts, Secretary/Treasurer
District of Columbia Health Benefits Exchange Authority

Date