

Special points of interest:

- **Newborns' and Mothers' Health Protection Act-Final Rules**
- **Women's Health and Cancer Rights Act Annual Notice**
- **Update PHI Access Form**
- **Future Quarterly Newsletters**
- **Holiday Observance**

Newborns' and Mothers' Health Protection Act-Final Rules

Source: Society of Professional Benefit Administrators (SPBA) -10-23-08

On Oct. 20, the Department of Labor and three other governmental agencies released final rules for group health plans regarding hospital lengths of stay for mothers and newborns following childbirth. The final regulations are effective on Dec. 19, 2008. For the group market, the final rules apply to group health plans and issuers for plan years beginning on or after Jan. 1, 2009. ERISA-covered group health plans are required to comply with the ERISA notice regulations, whether insured or self-insured. Nonfederal governmental plans and health insurance issuers in the individual market are required to comply with the Public Health Services Act notice which was amended to incorporate these provisions as well.

The final regulations support the general rule that group health plans and health insurance issuers may not restrict mothers' and newborns' benefits for a hospital length of stay in conjunction with childbirth to less than 48 hours following a vaginal delivery or 96 hours following a delivery by cesarean section.

The final regulations make various clarifications including that:

==>the attending provider makes the determination that an admission is in connection with childbirth and when the hospital stay begins for purposes of the application of the general rule;

==> the attending provider makes the determination when an exception to the 48-

hour or 96-hour general rule will be taken when in consultation with the mother;

==> the final regulation clarifies the application of the authorization and pre-certification requirements with respect to the 48-hour or 96-hour stay;

==>the final regulation clarifies prohibitions with respect to a plan or issuer offering incentives to mothers or disincentives to encourage less than the 48-hour (or 96-hour) stay.

The final rules include an exception to the Newborns' Act requirements in certain states for plans subject to state law. Accordingly, self-insured plans in all states generally are required to comply with the federal requirements (except those nonfederal governmental plans that have opted out of the PHS Act requirements).

The final regulations include a clarification that the definition of attending provider does not include a plan, hospital, managed care organization or other issuer.

BAS is currently reviewing these new regulations and will provide additional information in the near future.

Women's Health and Cancer Rights Act Annual Notice

The "Women's Health and Cancer Rights Act", passed in 1998, requires health plans to provide Plan Participants with a written notice of the mastectomy provisions of the Act. An initial written notice of the coverage under the Act must be provided to Plan Participants upon enrollment an annually thereafter. Attached to this Newsletter



is a sample notice that can be utilized for the initial, as well as the annual notification. This notification should, as on the case of other required notifications, be issued to Mr. & Mrs. in cases where new Plan Participants are married or active Plan Participants have their spouses covered by the Plan.

Update PHI Access Form

Our PHI Access Form was developed for your use in documenting those employees or classes of employees who will be given access to Protected Health Information (PHI).

Attached is a PHI Access Form for your use in providing us with the current names or classes of employees that are allowed to receive PHI from BAS. As changes occur in your staffing, we request that you submit a revised PHI Access Form.

Please complete the form and return it within the next two weeks to the Compliance Manager at BAS' Homewood office at 17475 Jovanna Drive Suite 1B, Homewood, IL 60430 or email it to privacyassistance@benadmsys.com or fax it to 708-799-3256.

We further request that you provide BAS with a copy of the Business Associate Agreement you have with your broker and/or consultant if you haven't done so.

Future Quarterly Newsletters

In 2009 BAS will publish the Newsletter at the end of each quarter with special bulletins on an as needed basis.

Holiday Observance

This Holiday Season our offices will close at 3:00 PM on Wednesday, December 24 and will remain closed on Thursday and Friday, December 25 and 26, 2008 and our offices will be closed on Thursday and Friday, January 1 and 2, 2009.

Our entire organization joins in wishing you a very Joyous Holiday Season! Best Wishes for a Happy, Healthy and Successful New Year!



***THIS NOTICE SHOULD BE REPRODUCED
ON YOUR COMPANY LETTERHEAD***

Date: _____

Participant Name: _____

Address: _____

City, State, Zip Code: _____

In compliance with the Women's Health and Cancer Rights Act, this letter serves as your annual notification regarding benefits for mastectomies and various related services.

As you have been previously notified, your Group Health Plan provides coverage for performance of a mastectomy, the procedures necessary to effect reconstruction of the breast on which a mastectomy was performed, the cost of prostheses (implants, special bras, etc.) as well as physical complications of all stages of mastectomy, including lymphedemas, as maybe recommended by an attending physician of any patient on whom a mastectomy has been performed.

As previously amended, the Plan will provide coverage for any necessary surgery or reconstruction of the breast on which a mastectomy was not performed in order to produce a symmetrical appearance, for any participant or beneficiary of the Plan who receives plan benefits for a mastectomy.

Coverage for such surgery or reconstruction will be subject to the same deductibles and copayments that apply to mastectomies under the Plan's current terms, which are described in your Group Health Care Plan Document and Summary Plan Description.

PHI ACCESS
 Individuals with Access to
Protected Health Information

HIPAA requires that only those employees or classes of employees or other persons under the control of the Plan sponsor, and as described in your Plan document, will be given access to Protected Health Information (PHI)*. In order to assist us in identifying the appropriate individuals who may be given access to PHI, please consider those persons involved in activities, such as:

- General Plan administration - medical, dental and vision;
- Lawsuits involving your Plan;
- Renewal process;
- Claims appeals;
- Cases handled by Utilization Review;
- Determinations of claims to be paid outside of the Plan; and
- Administration of COBRA, Flex, etc.

For example, if the Board of Directors or Officers of the company may view PHI when dealing with lawsuits, renewals, etc., you may simply state "Board of Directors" or "Officers of the company". Please note that all employees who have access to PHI will be required to undergo training on your Plan's HIPAA Policies & Procedures.

Group Name: _____ **Date:** _____

Please insert the **Name, Title, Department and Email Address** of the individuals who have access to PHI:

Name	Title	Department	Email Address

Contact Name: _____ **Phone:** _____
E-mail: _____ **Date:** _____

*If you need additional space, please attach a separate sheet. Please FAX this Form to **708-799-3256** or email it to privacyassistance@benadmsys.com or mail it to **Compliance Manager Benefit Administrative Systems, L.L.C., 17475 Jovanna Drive, Suite 1B, Homewood, IL 60430***

*Protected Health Information (PHI):
 Either identifies the person or reasonably can be used to identify the person;
 Is created or received by the health care provider, health plan, employer, or health care clearinghouse;
 Is maintained or transmitted by a covered entity orally, in writing, or electronically; and
 Relates to the past, present, or future physical or mental health/condition of a person or relates to the provision of health care to a person, OR relates to the payment for the provision of health care to a person.