STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin HC-102
June 15, 2015

TO: All Health Insurance Companies and Health Care Centers Authorized to Conduct Business in Connecticut

RE: Health Insurance Coverage for Hearing Aids—Conn. Gen. Stat. § 38a-490b and § 38a-516b

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This Bulletin clarifies Connecticut's mandated coverage for hearing aids under Conn. Gen. Stat. § 38a-490b and § 38a-516b in relation to changes brought about under the Patient Protection and Affordable Care Act. Pub. L. 111-48, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152 (collectively "ACA").

This Bulletin addresses the general use of age-based benefit restrictions. Section 1557 of the ACA broadly prohibits discrimination in benefit design based on age. The U.S. Department of Health and Human Services ("HHS") has provided guidance on what is considered a discriminatory benefit design, and uses hearing aids for children as an example of a potentially discriminatory benefit design. In proposed regulations issued November 21, 2014, [1] HHS writes:

> "We caution both issuers and States that age limits are discriminatory when applied to services that have been found clinically effective at all ages. For example, it would be arbitrary to limit a hearing aid to enrollees who are 6 years of age and younger since there may be some older enrollees for whom a hearing aid is medically necessary. Although we do not enumerate which benefits fall into each statutory [Essential Health Benefits] category, issuers should not attempt to circumvent coverage of medically necessary benefits by labeling the benefit as a ''pediatric service'', thereby excluding adults." [2]

HHS refers back to this guidance in the final regulation issued on February 20, 2015[3] where it indicates: "...the examples identified in the proposed rule contain indications that they are discriminatory, and therefore further investigation by the enforcing entity

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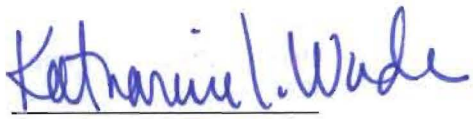
[1] Proposed HHS Notice of Benefit and Payment and Payment Parameters for 2016, 79 Fed. Reg. 228, 70674 – 70760 (November 26, 2014) http://www.gpo.gov/fdsys/pkg/FR-2014-11-26/pdf/2014-27858.pdf
[2] Proposed HHS Notice of Benefit and Payment and Payment Parameters for 2016, 79 Fed. Reg. 228, 70723 (November 26, 2014) http://www.gpo.gov/fdsys/pkg/FR-2014-11-26/pdf/2014-27858.pdf
[3] HHS Notice of Benefit and Payment Parameters for 2016, 80 Fed. Reg. 39, 10750- 10877(February 27, 2015) http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03751.pdf

may be required. We strongly caution issuers that the examples cited appear discriminatory in their application when looking at the totality of the circumstances, and may therefore be prohibited." [4] Based on this guidance, the Insurance Department has reviewed the age limit of 12 and under and has determined hearing aids may be clinically effective for all ages, and is therefore requiring carriers to remove the age limits on hearing aid benefits for policies issued or renewed on or after January 1, 2016.

The Essential Health Benefits package continues to include a limit of one hearing aid per twenty-four months rather than the $1000 limit under Conn. Gen. Stat. § 38a-490b and § 38a-516b.

Please contact the Insurance Department Life and Health Division at cid.lh@ct.gov with any questions.



Katharine L. Wade
Insurance Commissioner

[4] HHS Notice of Benefit and Payment Parameters for 2016, 80 Fed. Reg. 39, 10823 (February 27, 2015) http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03751.pdf