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An Act Establishing the Charter Oak Health Plan:

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective upon passage). As used in sections _____to _____, inclusive.

(1) "Charter Oak Health Plan" means a plan administered by the Commissioners of Insurance and Social Services, which plan meets the requirements of Section 2 and which is offered by a licensed health care center or managed care organization on policy forms approved by the Commissioner of Insurance pursuant to Section 38a-481 or Section 38a-513.

(2) "Co-pay" means a flat dollar amount payable by the enrollee as the enrollee's share of the payment for the medical goods, services, or treatment.

(3) "Coinsurance" means a fixed percentage of the provider charge payable by the enrollee as the enrollee's share of the payment for the medical goods, services, or treatment.

(4) "Deductible" means the amount an enrollee must pay on an annual basis for medical goods, services, or treatment covered under the Charter Oak Health Plan before any Charter Oak Health Plan payments will begin.

(5) "Enrollee" means an individual who is eligible to receive benefits through the Charter Oak Health Plan and who signs up for the Charter Oak Health Plan and pays the premium due.

(6) "Health Care Center" means a person or line of business as provided in Section 38a-175.

(7) "Managed Care Organization" means an entity as provided in Section 38a-478.

(8) "Provider Charge" means the contracted rate a provider may charge for services provided to Charter Oak Health Plan enrollees, pursuant to the contract in force between the provider and the health care center or managed care organization offering the Charter Oak Health Plan or the reasonable and customary charge, if the provider is not a contracted provider.

Section 2. (NEW) (Effective upon passage) (a) The Charter Oak Health Plan shall be made available to residents of this state between nineteen through sixty four years of age who have been without health insurance as defined in Section 38a-469 (1), (2), (4), (11), and (12) for at least six months, except where the enrollee loses health insurance coverage due to a loss of employment or due to the enrollee's employer's termination of the employer's health insurance program.

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(b) The Charter Oak Health Plan shall offer the following benefits to enrollees subject to limitations established in subsections (c), (d), (e), (f), and (g): (1) prescription drugs approved by the federal Food and Drug Administration which are prescribed by a licensed physician; (2) office visits and surgical services provided by a licensed physician (3) maternity services, including prenatal care and inpatient and postnatal care as described in section 38a-503c; (4) hospital inpatient services; (5) services at an outpatient surgical facility as defined in section 19a-493b; (6) urgent care services (7) laboratory and imaging services; and (8) hospital emergency room services (9) behavioral health services with a limit on the number of visits annually, as set forth in regulations issued by the Commissioners of the Departments of Insurance and Social Services; and (10) limited rehabilitation services, as set forth in regulations issued by the Commissioners of Insurance and Social Services.

(c) Co-pays for prescription drugs prescribed by licensed physicians under the Charter Oak Health Plan shall not exceed fifty-five dollars for a thirty-day supply of the prescription. Co-pays for services provided by licensed physicians pursuant to the Charter Oak Health Plan shall not exceed fifty dollars per visit. Co-pays for maternity services as provided through licensed physicians in Charter Oak Health Plan shall not exceed twenty-five dollars. Co-pays for hospital emergency room services provided through the Charter Oak Health Plan shall not exceed one hundred and fifty dollars, which co-pay shall not apply if the visit is determined to be reasonable or if enrollee is admitted to the hospital. Coinsurance payable by the enrollee for hospital inpatient services, outpatient surgery, urgent care services, laboratory services and imaging services shall not exceed twenty percent of the provider charge if purchased through the Charter Oak Health Plan.

(d) The maximum lifetime benefit per person enrolled in the Charter Oak Health Plan is one million dollars.

(e) An enrollee's annual deductible shall not exceed one thousand dollars. An enrollee's annual coinsurance, after the deductible is applied, shall not exceed one thousand dollars. The Charter Oak Health Plan shall not include any limitations or exclusions for the pre-existing conditions of an enrollee.

(f) All enrollees under the Charter Oak Health Plan shall select or be assigned a primary care physician, consistent with the reasonable requirements of the licensed health care center or managed care organization, as approved by the Commissioners of Insurance and Social Services. Enrollees will need to obtain a referral from the primary care physician assigned and also a prior authorization from the health care center or managed care organization, in order for a visit to a specialist to qualify for payment under the Charter Oak Health Plan. In addition enrollees will need to obtain prior authorization for non-emergency hospital care.

(g) The Charter Oak Health Plan shall not cover dental, or hospice services. The Charter Oak Health Plan shall not cover vision services, except for one vision exam per calendar year. The Charter Oak Health Plan shall not cover skilled nursing facility services.

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Section 3. (NEW) (Effective upon passage). The Commissioners of Insurance and Social Services shall promulgate regulations in accordance with chapter 54 to implement the provisions of section 2.

Section 4. Subsection (b) of section 38a-476a of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
(b) Each insurance company, fraternal benefit society, hospital service corporation, medical service corporation and health care center shall comply with sections 2702, 2704, 2705 and 2712 of the Public Health Service Act, as set forth in the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191 and 104-204) (HIPAA), as amended from time to time, concerning discrimination based on health status, newborns' and mothers' health, parity of mental health benefits and guaranteed renewability of coverage for employers in the group market, with respect to health insurance coverage offered in the small and large group markets as defined in said Public Health Service Act. The requirement concerning parity of mental health benefits shall not be applicable with respect to any limits on visits to behavior health providers under the Charter Oak Health Plan as provided in section .

Section 5. Subsection (b) of Section 38a-488a of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,
(b) No such policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions.

Section 6. Section 38a-491 of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,
Whenever the term "physician" or "doctor" is used in any individual health insurance policy delivered, issued for delivery or renewed in this state on or after October 1, 1975, it shall be deemed to include persons licensed, under the provisions of chapter 379, to engage in the practice of dentistry or dental medicine, when benefits under such policy or contract for care, treatment or services rendered or procedures performed by such person would be payable if rendered or performed by a person licensed under chapter 370.

Section 7. Section 38a-491a of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,
(a) Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed or continued in this state on or after January 1, 2000, shall provide coverage for general anesthesia, nursing and related hospital services provided in conjunction with in-patient, outpatient or one-day dental services if the following conditions are met:

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(1) The anesthesia, nursing and related hospital services are deemed medically necessary by the treating dentist or oral surgeon and the patient's primary care physician in accordance with the health insurance policy's requirements for prior authorization of services; and

(2) The patient is either (A) determined by a licensed dentist, in conjunction with a licensed physician who specializes in primary care, to have a dental condition of significant dental complexity that it requires certain dental procedures to be performed in a hospital, or (B) a person who has a developmental disability, as determined by a licensed physician who specializes in primary care, that places the person at serious risk.

(b) The expense of such anesthesia, nursing and related hospital services shall be deemed a medical expense under such health insurance policy and shall not be subject to any limits on dental benefits under such policy.

Section 8. Subsection (a) of Section 38a-493 of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan and home health care benefits for the terminally ill,
(a) Every individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469 delivered, issued for delivery or renewed in this state on or after October 1, 1975, shall provide coverage providing reimbursement for home health care to residents in this state.

Section 9. Subsection (b) of Section 38a-514 of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,
(b) No such group policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions.

Section 10. Section 38a-517 of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,
Whenever the term "physician" or "doctor" is used in any group health insurance policy delivered, issued for delivery or renewed in this state on or after October 1, 1975, it shall be deemed to include persons licensed, under the provisions of chapter 379, to engage in the practice of dentistry or dental medicine, when benefits under such policy for care, treatment or services rendered or procedures performed by such person would be payable if rendered or performed by a person licensed under chapter 370.

Section 11. Section 38a-517a of the general statutes is hereby repealed and the following is substituted in lieu thereof (Effective upon passage):
Except as otherwise provided in section pertaining to the Charter Oak Health Plan,

Office of the
Healthcare Advocate
State of Connecticut

Testimony of Kevin P. Lembo, Healthcare Advocate before the Human Services, Appropriations, and Insurance Committees On the Charter Oak Health Plan, December 5, 2007

Good afternoon Senator Harris, Representative Villano, Senator Harp, Representative Merrill, Senator Crisco, Representative O'Connor and members of the human services, appropriations and insurance committees. As someone whose office sees on a daily basis the struggles of families and individuals who have no health insurance, health insurance, or are underinsured, I welcome the opportunity to speak about the Charter Oak Plan. Like the Governor, I support the idea of providing access to health insurance for our uninsured residents. However, I believe that the Charter Oak plan needs some major adjustments in order to achieve the goals of providing comprehensive healthcare insurance to those who enroll in the plan, making services under the plan meaningfully accessible and making the plan viable on a sustainable basis. I remain concerned that the plan as described creates a two-tiered system, one level for state employees and fully insured individuals and a lower level for uninsured individuals.

The Charter Oak plan as designed is not comprehensive in scope. A less-than comprehensive plan means that some of Connecticut's citizens will not be protected by the existing state policies requiring coverage of items such as minimum hospital stays for delivery, mental health parity and diabetes testing and equipment. A limited benefit plan design including very low coverage limits on items like prescription drugs, or a "mandate-lite" plan design as has been described recently, sends the message that Connecticut is not concerned with providing comprehensive health care coverage to our uninsured population.

The state should not be in the business of marketing and setting the precedent for the proliferation of limited benefit plans or trying to avoid the legal obligations that it imposed on other regulated plans. When it comes to health insurance - something is NOT better than nothing. In my office, I have seen far too many examples of the drastic consequences of underinsurance, and limited benefit plans have no place in the insurance market.

The Charter Oak legislation contains no language exempting this insurance product from the consumer protections in the state Insurance Statutes. Nor is there any public policy rationale for doing so. There is nothing by way of legislative intent to suggest that the Charter Oak Plan was intended to be outside the scope of the Insurance Department's jurisdiction. In fact in March 2007, Commissioner Starkowski testified that the intention was to comply with insurance "mandates". Since the final legislation was passed as part of a large implementer bill, there was no substantive debate on the final language of the Charter Oak Plan.

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The Insurance Department reached a conclusion early this year that the Charter Oak plan was subject to the consumer protections of the insurance statutes and would require specific exemptions from those protections, including mental health parity. The department even drafted language for those exemptions. While the department later changed its position, it did so based on a less-than legally sound basis, stating that Charter Oak is a "social program" because it involves some state subsidies for low-income persons.

This flawed reasoning led me to request of the Insurance Commissioner that he reconsider his position. Charter Oak is supposed to be open to consumers of all incomes, many of whom will receive no subsidy toward their insurance premiums. Frankly, if state subsidies were a test of whether a program is a social program for purposes of insurance regulation, then the provision of state employee insurance, at a large cost to the state, would turn that type of insurance into a social program for state employees as well.

I remain unconvinced that the consumer protections in our statutes place an unwieldy burden on insurers. The idea that these consumer protections are costly has taken on a life of its own through repeated assertions of this mantra by the insurance industry, assertions that are supported only by industry studies.

I have communicated strongly to the Insurance Commissioner that even if it were uncertain whether the consumer protections apply, the remaining insurance statutes must apply to the Charter Oak plan. There is absolutely no policy or legal justification for the Charter Oak plan to be exempt from such statutes as the Connecticut Unfair Insurance Practices Act, or those statutes governing managed care organizations or those providing for market conduct examinations, among others. I am disturbed by the Insurance Department's reluctance to regulate a product so clearly defined as a fully-insured product. I am committed to ensuring that consumers of the Charter Oak product receive the same protections provided to me, you and the Governor under the state's insurance laws.

Our goal should be for all state residents to benefit from the protections of our insurance laws. I made many recommendations to the Governor to achieve that goal and to improve the Charter Oak plan, including: a minimum medical loss ratio to ensure that premium dollars are going to service costs rather than to increase margins for the insurance companies; the setting of reimbursement rates to a level that would ensure access; and, accountability under HIPAA.

My hope is that we can improve the Charter Oak plan so that it complies with the letter and spirit of the insurance protections that many of us here today already enjoy. We must slow down the procurement process to ensure that the product is comprehensive, affordable and marketable to all uninsured residents. Alternatively, this legislature may need time, in light of the new information before you, to amend the provision of P.A. 07-2 to guarantee consumer protections. I have said this before, but it bears repeating: It is too easy to get this wrong in the rush to do something. We need to get this right.

Thank you for your attention and welcome any questions you may have.

Attachments

A) Letter to Governor Rell, October 22, 2007

B) Letter to Insurance Commissioner Thomas Sullivan, October 15, 2007

C) Response of Insurance Commissioner Sullivan, November 5, 2007

C) Letter to Insurance Commissioner Sullivan, November 16, 2007

D) Response of Insurance Commissioner Sullivan, November 30, 2007

D) Excerpt of Human Services Hearing Committee Transcript from March 15, 2007, Exchange between Senator Harris and Commissioner Starkowski re Charter Oak Plan

E) Draft – Revisions to Insurance Statutes Related to Charter Oak, January 2007