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REVISED AND REISSUED OCTOBER 5, 2004

DIRECTIVE NUMBER 73

COVERAGE OF CHIROPRACTIC SERVICES

DIRECTIVE NUMBER 73 REVISED

Directive Number 73, issued on January 27, 2003, is hereby revised and reissued to include limited benefit health plans.

It has come to my attention that the policy form filings of some accident & health insurance companies, health maintenance organizations, limited benefit health plans, and self-insurers are failing to comply with the statutory requirements of LSA-R.S. 22:6(2)(a), 668(A)(1), 1214(7)(b), and 2002(3). Charged with the duty of administering the provisions of the Louisiana insurance code, and all other Louisiana laws applicable to licensed insurers, I hereby direct every insurance company, health maintenance organization, limited benefit health plan, and self-insurer providing group and individual major medical health coverage in this state to assure all insurance products filed for approval with the department are brought into full compliance with the following statutory requirements:

LSA-R.S. 22:6(2)(a) which states:

Health and accident. Insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement, or expense resulting from sickness or old age, or against major expenses incurred by an employee benefit plan due to the illness or injury of a covered employee, or against major expenses incurred by a health care provider at financial risk for provision of health care to persons under an agreement, and every insurance appertaining thereto, including insurance wherein the benefits are covered at a higher level when health care is received from a defined network of health care providers, provided, however, that such insurance meets all applicable requirements of Part XII of Chapter 2 of this Title for provision of coverage through designated providers of medical services.

LSA-R.S. 22:668(A)(1) which states:

"Notwithstanding any provision of any policy or contract of insurance or health benefits issued after the effective date of this Section, whenever such policy or contract provides for payment or reimbursement for any service, and such service may be legally

performed by a chiropractor licensed in this state, such payment or reimbursement under such policy or contract shall not be denied when such service is rendered by a person so licensed. Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void.

LSA-R.S. 22:1214(7)(b) which states:

"Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, or rates charged for any policy or contract of health or accident insurance or in the benefits payable hereunder, or in any of the terms or conditions of such contract, or in any other manner whatever, provided that, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor."

LSA-R.S. 22:2002(3) which states:

"Basic health care services" means emergency care, inpatient hospital and physician care, outpatient medical and chiropractic services, and laboratory and x-ray services. The term shall include optional coverage for mental health services for alcohol or drug abuse. With respect to chiropractic services, such services shall be provided on a referral basis at the request of the enrollee who presents a condition of an orthopedic or neurological nature necessitating referral, the treatment for which falls within the scope of a licensed chiropractor."

The Louisiana Department of Insurance has consistently interpreted and implemented these statutory provisions as prohibiting the unequal treatment of chiropractors. This position has been upheld by the decision in Chiropractic Ass'n of Louisiana v. State, 595 So.2d 316 (La. App. 1st Cir. 1991), *writ denied*, 600 So.2d 609. The Court therein emphasized that the objective of the above enumerated legislative enactments was to protect chiropractors from discrimination. Moreover, the court positioned that a provision in the defendant's plan limiting payment for outpatient treatment commonly provided by chiropractors violated substantive law, since it was the result of "discriminatory restrictions thinly disguised as non-discriminatory restrictions." *Id.* at 595 So.2d 316, 320 (Emphasis added). Additionally, Louisiana Attorney General Opinion 98-164, 1998 WL 233018 (La. A.G.), further supports this department's longstanding prohibition on discriminatory practices in providing access to and payment for chiropractic services.

It is the position of the Louisiana Department of Insurance that existing statutory provisions require health insurance issuers providing health coverage to allow the member, insured, or enrollee access to and payment for chiropractor services rendered within the chiropractor's scope of license. The issuer's contract or policy must cover such treatment rendered by a licensed chiropractor. Additionally, the provisions of coverage cannot exclude chiropractors from the definition of eligible providers nor can they exclude or limit reimbursement for treatment rendered by a chiropractor. Any such exclusion or limitation on coverage must apply to the same or similar treatment performed by all other eligible providers. Furthermore,

coverage provisions which exclude or limit benefits for spinal manipulation, spinal adjustment, diathermy, massage and physical therapy rendered in connection with the treatment of dislocation, subluxation or misplacement of vertebrae and/or strains and sprains of soft tissues related to the spine are considered discriminatory and prohibited by the above cited statutes.

Attorney General Opinion 98-164 states the following:

“...In other words, if a condition of an orthopedic or neurological nature exists, but the condition can be treated by the primary care physician, a referral is not necessary. However, if the patient must be referred and a request is made for a chiropractor or for chiropractic treatment, then the statute imposes a duty on the primary care physician to refer that enrollee (patient) to a chiropractor, provided the proposed treatment falls within the scope of a licensed chiropractor. The scope of a licensed chiropractor is outlined by Louisiana Revised Statute 37:2801...”


Policies of insurance containing such discriminatory language will not be approved and any such language in existing contracts is unenforceable. Such policies may not be relied upon as grounds for denying claims or making unequal payments to providers. Policies not conforming to this Directive are presently in violation of the law and must be modified forthwith to bring the policy into compliance with the law.

Furthermore, the Department of Insurance intends to strictly enforce the statutory requirements allowing both access to chiropractic care and the ability of a member, an enrollee or an insured to seek and receive referrals for covered chiropractic services when medically necessary.

Effective immediately, it is hereby ordered and directed that all limited benefit health plans comply with the requirements of this directive.

Please Be Governed Accordingly.

BY: _____


J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE