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CORRESPONDENCE MEMORANDUM

DATE: August 4, 2009

TO: Group Insurance Board

FROM: Bill Kox, Director, Health Benefits and Insurance Plans
Joan Steele, Manager, Alternate Health Plans

SUBJECT: Guidelines and Uniform Benefits for the 2010 Benefit Year – Technical Amendments

Staff recommends that the Group Insurance Board (Board) adopt the Guidelines and Uniform Benefits technical amendments as discussed below.

At its April 14, 2009, meeting, the Group Insurance Board (Board) reviewed and approved changes for the 2010 benefit year. Staff noted that further contract changes may be necessary if other state mandates are passed before the bidding process is complete. In addition, the Board granted staff the authority to proceed with needed technical clarifications.

The following is a brief description of the state mandates that recently passed. In addition to the technical clarifications, there is one substantive change – it relates to extending enrollment opportunities under the Federal Health Insurance Portability and Accountability Act (HIPAA) to domestic partners.

The technical clarifications are discussed along with the corresponding language changes. New language is shaded and underscored and language to be deleted is ~~stricken~~.

Where appropriate, the recommendations also apply to the Wisconsin Physicians Service (WPS) contracts for the Standards Plans and staff will make the necessary changes.

Staff expects an administrative rule change on the eligibility changes for domestic partners and dependents to age 27 to be presented to the Board at the November Board meeting. Further technical clarifications may be necessary as staff continue to implement these mandates and develop administrative rule changes. Staff will bring any notable changes before the Board but is also requesting authority to proceed with any needed technical clarifications.

Reviewed and approved by Tom Korpady, Division of Insurance Services.

______________________________ ____________
Signature Date

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RECOMMENDED CHANGE FOR DISCUSSION:

Domestic Partner Benefits Related to Enrollment Opportunities: 2009 Wisconsin Act 28 provides benefits for domestic partners. Under Federal law, enrollment opportunities under the Health Insurance Portability and Accountability Act (HIPAA) do not apply to domestic partners, for example, enrollment due to loss of other coverage. Most of the contract provisions describing HIPAA enrollment opportunities currently use terminology that by contract definition extend the rights to domestic partners. However, one contract provision requires revision. To conform our practice to the intent of the law, staff recommends the Board extend this HIPAA enrollment right to domestic partners. The recommended language change is shown below:

Section	Language Change
State & Local Contract *Article 3.3 (7) (c)*	An EMPLOYEE who deferred coverage may enroll if he or she has a new DEPENDENT as a result of birth, adoption, placement for adoption, ~~or~~ marriage or domestic partnership provided he or she submits an application within 60 days of the birth, adoption or placement for adoption, or within 30 days of the marriage or effective date of the domestic partnership.

OTHER TECHNICAL CLARIFICATIONS:

1) **Domestic Partner Benefits:** Technical clarifications are needed to incorporate domestic partner benefits and the corresponding language changes are shown below:

Section	Language Change
State & Local Contract *Article 1.7* Uniform Benefits *Section II.* (Definitions Section)	**DEPENDENT:** Means the Subscriber's: • Spouse. • Domestic Partner. • Unmarried child. • Legal ward who becomes a legal ward of the Subscriber prior to age 19, but not a temporary ward. • Adopted child when placed in the custody of the parent as provided by Wis. Stat. § 632.896. • Stepchild or child of the Domestic Partner. • Grandchild if the parent is a Dependent child. The Dependent grandchild will be covered until the end of the month in which the Dependent child turns age 18. . . . A spouse and a stepchild cease to be Dependents at the end of the month in which a marriage is terminated by divorce or annulment. A Domestic Partner and his or her children cease to be Dependents at the end of the month in which the domestic partnership is no longer in effect.

<table>
<tr><th>Section</th><th>Language Change</th></tr>
<tr><td>State & Local Contract
Article 1.8

Uniform Benefits
Section II.
(Definitions Section)</td><td>DOMESTIC PARTNER: Means an individual that certifies in an affidavit along with his or her partner that they are in a domestic partnership as provided under Wis. Stat. § 40.02 (21d), which is a relationship between two individuals that meets all of the following conditions:
• Each individual is at least 18 years old and otherwise competent to enter into a contract.
• Neither individual is married to, or in a domestic partnership with, another individual.
• The two individuals are not related by blood in any way that would prohibit marriage under Wisconsin law.
• The two individuals consider themselves to be members of each other's immediate family.
• The two individuals agree to be responsible for each other's basic living expenses.
• The two individuals share a common residence. Two individuals may share a common residence even if any of the following applies:
- Only one of the individuals has legal ownership of the residence.
- One or both of the individuals have one or more additional residences not shared with the other individual.
- One of the individuals leaves the common residence with the intent to return.</td></tr>
<tr><td>State & Local Contract
Article 3.11</td><td>COVERAGE OF SPOUSE OR DOMESTIC PARTNER
If both spouses or both DOMESTIC PARTNERS are ANNUITANTS or employed through the State of Wisconsin and both are eligible for coverage, each may elect individual coverage, but if one spouse or one DOMESTIC PARTNER elects family coverage, the other eligible spouse or eligible DOMESTIC PARTNER may be covered as a DEPENDENT but may not have any other coverage. Two single contracts may be combined to one family contract, a family contract may be converted to two single contracts, or the family coverage may be changed from one spouse or one DOMESTIC PARTNER to the other without penalty effective the first day of the calendar month which begins on or after the date the EMPLOYER receives the application, or a later date as specified on the application. If the spouses or DOMESTIC PARTNERS have coverage with different HEALTH PLANS at the time of marriage or the effective date of the domestic partnership or when two single contracts are combined to one family contract, they may elect family coverage with either HEALTH PLAN. Should the spouses become divorced or the domestic partnership terminated while carrying family coverage, the divorced spouse or former DOMESTIC PARTNER may elect coverage without lapse if the EMPLOYER received the application within 30 days of the divorce or termination of domestic partnership.</td></tr>
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Section	Language Change
State & Local Contract *Article 3.18 (1) (e)*	The definition of PARTICIPANT no longer applies (such as a DEPENDENT child's marriage, divorced spouse, end of a domestic partnership, etc.). As required by Wis. Stat. §632.897, if family coverage remains in effect and the EMPLOYEE fails to notify the EMPLOYER of divorce, coverage for the ex-spouse ends the last day of the month in which notification of continuation of coverage rights occurs. The EMPLOYER may collect PREMIUM retroactively from the SUBSCRIBER if the divorce was not reported in a timely manner and there were no other eligible DEPENDENTS for family coverage to remain in effect.
State & Local Contract *Article 3.20 (2)*	If a PARTICIPANT changes the level of coverage (e.g., single to family), transfers to another State agency or has a spouse-to-spouse or DOMESTIC PARTNER to DOMESTIC PARTNER transfer resulting in a change of SUBSCRIBER, but does not change HEALTH PLANS, the annual BENEFIT maximums will continue to accumulate for that year.
Uniform Benefits *Section II.* (Definitions Section)	**IMMEDIATE FAMILY:** Means the Dependents, parents, brothers and sisters of the Participant and their spouses or Domestic Partners.
Uniform Benefits *Section II.* (Definitions Section)	**SKILLED CARE:** Means medical services rendered by registered or licensed practical nurses; physical, occupational, and speech therapists. . . . After that, most patients have recuperated enough to be cared for by "nonskilled" persons such as spouses, Domestic Partners, children or other family or relatives.

2) **Dependents:** 2009 Wisconsin Act 28 provides coverage for dependent children less than 27 years of age and for dependent children who are full-time students, regardless of age, in specific situations. The corresponding language change is shown below:

Section	Language Change
State & Local Contract *Article 1.7* Uniform Benefits *Section II.* (Definitions Section)	. . .Other children cease to be Dependents at the end of the calendar year in which they turn 19 years of age or cease to be dependent for support and maintenance, or at the end of the month in which they marry, whichever occurs first, except that: . . . 3. As required by Wis. Stat. § 632.885, a Dependent includes a child that is not married and is not eligible for coverage under a group health insurance plan that is offered by the child's employer and for which the amount of the child's premium contribution is no greater than the premium amount for his or her coverage as a Dependent under this program when: • the child is less than 27 years of age, or • the child is a full-time student, regardless of age, who was called to federal active duty when the child was under the age of 27 years and while the child was attending, on a full-time basis, an institution of higher education.

3) **Autism Spectrum Disorders:** 2009 Wisconsin Act 28 provides coverage of treatment for autism spectrum disorders. The dollar limit in the statute has been incorporated as the benefit maximum, which is consistent with how the Board has adopted other mandates, such as mental health and temporomandibular joint (TMJ). The corresponding language changes are shown below:

Section	Language Change
Uniform Benefits *Section I.* (Schedule of Benefits)	Autism Spectrum Disorders: Benefits payable up to $50,000 per year for intensive-level and up to $25,000 per Participant per calendar year for nonintensive-level services.

Section	Language Change
Uniform Benefits *Section III., C., 6.* (Benefits and Services Section)	***Coverage of Treatment for Autism Spectrum Disorders*** Treatment of autism spectrum disorders is covered as required by Wis. Stat. §632.895 (12m). Autism spectrum disorder means any of the following: autism disorder, Asperger's syndrome or pervasive developmental disorder not otherwise specified. Treatment of autism spectrum disorders is covered when the treatment is prescribed by a physician and provided by any of the following Plan Providers: psychiatrist, psychologist, social worker, paraprofessional working under the supervision of any of those three types of providers, professional working under the supervision of an outpatient mental health clinic, speech-language pathologist, or occupational therapist. Benefits are payable up to $50,000 per year for intensive-level and up to $25,000 per calendar year for nonintensive-level services. The therapy limit does not apply to this benefit.
Uniform Benefits *Section IV., A., 4., b.* (Exclusions and Limitations Section)	. . . These therapies that are excluded may be used to treat conditions such as learning/developmental disabilities, communication delays, perceptual disorders, mental retardation, behavioral disorders, hyperactivity, attention deficit disorders, minimal brain dysfunction, sensory deficits, multiple handicaps, and motor dysfunction. (Note: Mandated benefits for autism spectrum disorders under Wis. Stat. §632.895 (12m) limit this exclusion.)

4) **Cochlear Implants and Hearing Aids:** 2009 Wisconsin Act 14 provides coverage of hearing aids, cochlear implants and related treatment for infants and children. The corresponding language change is shown below:

Section	Language Change
Uniform Benefits *Section I. & III., C., 3.* (Schedule of Benefits and Benefits and Services Section)	Hearing Aids: One hearing aid per ear no more than once every three years payable at 80%, up to a maximum payment of $1,000 per hearing aid. The Participant's out-of-pocket costs are not applied to the annual out-of-pocket maximum for Durable Medical Equipment. As required by Wis. Stat. §632.895 (16), hearing aids for Participants under 18 years of age are payable at 100% and the $1,000 limit does not apply. Cochlear Implants: Device, surgery for implantation of the device, and follow-up sessions to train on use of the device when Medically Necessary and Prior Authorized by the Health Plan, payable at 80%. Hospital charges for the surgery are covered at 100%. The Participant's out-of-pocket costs are not applied to the annual out-of-pocket maximum for Durable Medical Equipment. As required by Wis. Stat. §632.895 (16), cochlear implants and related services for Participants under 18 years of age are payable at 100%.

5) **Contraceptives:** 2009 Wisconsin Act 28 provides coverage for contraceptives and related services. The corresponding language changes are shown below:

Section	Language Change
Uniform Benefits *Section III., A., 4.* (Benefits and Services Section)	***Reproductive Services and Contraceptives*** The following services do not require a Referral to a Plan Provider who specializes in obstetrics and gynecology, however, the Health Plan may require that the Participant obtain Prior Authorization for some services or they may not be covered. . . . c. Contraceptives as required by Wis. Wis. Stat. § 632.895 (17), including, but not limited to: o ~~c.~~ Oral contraceptives, or cost-effective Formulary equivalents as determined by the PBM, and diaphragms, as described under the Prescription Drug benefit. o ~~d.~~ IUDs , as described under the Durable Medical Equipment provision. o ~~e.~~ Medroxyprogesterone acetate injections for contraceptive purposes (for example, Depo Provera).
Uniform Benefits *Section IV., A., 7., f.* (Exclusions and Limitations Section)	~~Implantable birth control devices (for example, Norplant).~~

6) **Independent Review:** 2009 Wisconsin Act 28 revised the provisions for independent review. The corresponding language changes are shown below:

Section	Language Change
State & Local Contract *Article 2.10 (2)*	The PARTICIPANT may also request an independent review as provided under Wis. Stat. § 632.835 and Wis. Adm. Code § INS 18.11. In this event, the DEPARTMENT must be notified by the HEALTH PLAN of the PARTICIPANT'S request at the same time the Office of the Commissioner of Insurance is notified in a manner that is defined by the DEPARTMENT. In accordance with Wis. Stat. § 632.835 and Wis. Adm. Code § INS 18.11 any ~~determination~~ decision by an Independent Review Organization is final and binding except for any decision regarding a preexisting condition exclusion denial or the rescission of a policy or certificate. Apart from these two exceptions, PARTICIPANTS have no further right to administrative review by the DEPARTMENT or BOARD once the Independent Review Organization decision is rendered. Within 14 days of the Independent Review Organization rendering its determination, the HEALTH PLAN must notify the DEPARTMENT of the outcome and the Independent Review Organization's fee for the review.
Uniform Benefits *Section VI., J.* (Miscellaneous Provisions Section)	You may also request an independent review per Wis. Stat. § 632.835 and Wis. Adm. Code § INS 18.11. In this event, You must notify the Health Plan and/or PBM of Your request. In accordance with Wis. Stat. § 632.835 and Wis. Adm. Code § INS 18.11, any ~~determination~~ decision by an Independent Review Organization is final and binding except for any decision regarding a preexisting condition exclusion denial or the rescission of a policy or certificate. Apart from these two exceptions, y~~Y~~ou have no further right to administrative review once the Independent Review Organization decision is rendered.
Uniform Benefits *Section VI., K.* (Miscellaneous Provisions Section)	After exhausting the Health Plan's or PBM's Grievance process and review by the Department, the Participant may appeal the Department's determination to the Group Insurance Board, unless an Independent Review Organization decision that is final and binding has been rendered in accordance with Wis. Stat. § 632.835 and Wis. Adm. Code § INS 18.11. The Group Insurance Board does not have the authority to hear appeals relating to issues which do not arise under the terms and conditions of Uniform Benefits, for example, determination of medical necessity or whether a treatment or service is Experimental.

7) **Surviving Dependents:** Staff identified a technical clarification for the contract provision that describes coverage for surviving dependents. The corresponding language change is shown below:

Section	Language Change
State & Local Contract *Article 3.14 (1)*	As required by Wis. Adm. Code § ETF 40.01, the surviving insured DEPENDENT of an insured EMPLOYEE or ANNUITANT shall have the right to continue coverage, either individual or family. A DEPENDENT that regains eligibility and was previously insured under a contract of a deceased EMPLOYEE or ANNUITANT or a child of the EMPLOYEE or ANNUITANT who is born after the death of the EMPLOYEE or ANNUITANT will be eligible for coverage under the survivor's contract until such time that they are no longer eligible.

8) **Dependent Coverage:** Staff identified a technical clarification for the contract provision that describes coverage for a dependent that is omitted from the application for family coverage. The corresponding language change is shown below:

Section	Language Change
State & Local Contract *Article 1.7 (5)* Uniform Benefits *Section II.* (Definitions Section)	Any Dependent eligible for benefits who is not listed on an application for coverage will be provided benefits based on the date of notification with coverage effective the first of the month following receipt of the subsequent application by the EMPLOYER, except as required under Wis. Stat. § 632.895 (5) and 632.896.

Staff will be available at the Board meeting to respond to any questions or concerns.