CONNER STRONG

Legislative Update

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Health Care Reform – It's Not Just Coming from Washington

While national health insurance reform has received all of the attention, states across the nation have been actively involved in passing wholesale changes to how insured benefits plans will operate. As is often the case, state legislatures pass coverage mandates requiring insured plans to cover all sorts of items and services. These laws do not apply to self-funded plan sponsors, but their mere passage creates confusion. Many health care providers are unfamiliar with whether a participant's plan is insured or self-funded, so patients are often led to believe that these mandates apply to them when they do not. For employers that have insured plans on a national basis, the advent of these constant legislative changes is cause for constant review.

A pattern is beginning to develop where similar themes are emerging from state to state. It is important to recognize that just because a change may not impact the state where you have employees today, your state may consider adopting such a measure in the near future. Conner Strong regularly monitors these emerging trends and legal updates. Below are the highlights of the recent changes on a state-by-state basis for states that have made changes. In the event your business has insured business in a state noted below, these changes shall be applicable to your plans.

Major highlights include:

New York: Effective September 1, 2009, New York law requires group accident and health insurers issuing policies that cover dependent children to offer and, if requested by the policyholder, extend coverage under the policy to unmarried children through age 29, without regard to financial dependence. Children must not be issued by (or eligible for coverage under) any employer health benefit plan as an employee or member, and must live, work, or reside in New York or the insurer's service area. Extended dependent coverage must be made available at the inception of a new policy. Provisions also apply to group contracts issued by non-profit medical indemnity, health, and hospital service corporations. New York eliminated the scheduled repeal of its mental health parity legislation, known as Timothy's Law. The provisions were set to expire on December 31, 2009.

North Carolina: Effective January 1, 2010, North Carolina law requires health benefit plans to provide coverage for the diagnosis, evaluation, and treatment of lymphedema. Coverage may be subject to the same deductibles, coinsurance, and other limitations applicable to similar services under the plan. North Carolina has also revised its insurance law to reflect recently enacted federal legislation, including Michelle's Law, the Genetic Information Nondiscrimination Act of 2008, and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

North Dakota: Effective August 1, 2009, it is an unfair practice in North Dakota to base the compensation of insurance claims employees (or contracted claims personnel) on the number of policies canceled; the number of times coverage is denied; a quota limiting or restricting the number or volume of claims; or an arbitrary quota or cap limiting or restricting the amount of claim payment without consideration to the merits of the claim. Performance bonuses and incentives are included.

Oregon: Group health benefit plans that cover services performed by a clinical social worker or nurse practitioner must also cover services provided by a licensed professional counselor or marriage and family therapist, effective January 1, 2010. The law allows HMOs to limit coverage services to those provided (or upon referral) by contracted providers. HMOs and health care service contractors also may create benefit and reimbursement differentials at the same level as - and subject to limitations not more restrictive than - those imposed on expenses arising from other medical conditions, and apply them to contracting and non-contracting providers. Trusts carrying out multiple employer welfare arrangements (MEWAs) are also subject to the new requirements. Effective January 1, 2010, Oregon's health insurance mandate for coverage of nonprescription elemental eternal formula will become applicable to MEWAs and will no longer be subject to automatic sunset. In addition, health benefit plans, health care service contractors, and MEWAs are required to cover medically necessary therapy and services for the treatment of traumatic brain injury; and health care service contractors and MEWAs are subject to existing coverage mandates for orthotic and prosthetic devices, as well as acupuncture services performed by a licensed acupuncturist. Health benefit plans also must provide payment, coverage, or reimbursement for one hearing aid per hearing-impaired ear for a plan enrollee who is under 18 years of age, or an eligible plan dependent who is 18 or older and enrolled in an accredited educational institution. The maximum benefit amount required is $4,000 every 48 months, to be adjusted for inflation each January 1. Payment, coverage or reimbursement may be subject to plan provisions applicable to other durable medical equipment benefits. Also effective January 1, 2010, health benefit plans must cover the human papilloma virus (HPV) vaccine for female beneficiaries who are 11 to 26 years of age.

Pennsylvania: Insurers offering group health insurance under which coverage of a child would otherwise terminate at a specified age may, at the policyholder's option, provide coverage to a child of an insured employee beyond that specified age, up through and including the age of 29. Extended coverage is provided at the insured employees' expense, and insurers may determine premium increases related to continued coverage for adult dependents past the limiting age of 19. The law applies to new contracts and contract renewals occurring after December 7, 2009.

Rhode Island: The state's health insurance coverage law was amended with respect to smoking cessation programs. Amendments were also made to provisions dealing with nurse specialists, effective January 1, 2010.

Texas: Texas revised its definition of "utilization review" to include retrospective reviews of medical necessity, as well as determining the experimental or investigational nature

of a health care service, effective September 1, 2009. Health benefit plans delivered, issued for delivery, or renewed on or after January 1, 2010, must provide coverage for prosthetic devices, orthotic devices, and professional services related to their fitting and use that equals the coverage provided for the aged and disabled under federal Social Security law. Repair and replacement of the devices must be covered as well, unless necessitated by an enrollee's misuse or loss. Coverage may not be subject to annual dollar limits, but may be subject to annual deductibles, copayments, coinsurance, and preauthorization requirements that are consistent with those imposed for other coverage under the plan. Managed care plans may require the devices and services to be rendered by designated providers.

Utah: Utah businesses with construction or design contracts of at least $1.5 million (or subcontracts of at least $750,000) with specified state entities must offer qualified health insurance coverage to eligible employees and their dependents for the duration of the contracts. The requirement applies to contracts entered into on or after July 1, 2009.

Washington: For health benefit plans issued or renewed on or after January 1, 2010, health carriers must reduce any organ transplant waiting period by the amount of time a covered person had prior creditable coverage.

West Virginia: Effective July 1, 2009, group accident and sickness policies, as well as HMOs, must cover general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges for certain children and individuals with developmental disabilities for whom a successful result cannot be expected using local anesthesia. Prior authorization, deductibles, coinsurance, and other limitations may be imposed as applied to other covered services. West Virginia also revised its mental health parity requirements for plan years beginning on or after October 3, 2009. Under the amendment, insurers providing group health plans with more than 50 employees during the preceding calendar year may not apply cost containment measurers to treatment for mental illness - such as limitations on inpatient and outpatient benefits - unless they can demonstrate that application of the state's mandate results in an increase of 2% of the actual total costs of coverage for the plan year involved.

Wisconsin: Effective January 1, 2010, disability insurance policies and governmental self-insured health plans must provide coverage for the cost of hearing aids and cochlear implants recommended by a physician or licensed audiologist for a covered child who is under 18 years of age and is certified as deaf or hearing impaired by a physician or licensed audiologist. Coverage is also required for related treatment, including procedures for implantation of cochlear devices. Coverage may be subject to cost-sharing provisions, limitations, or exclusions (other than preexisting condition exclusions) that apply generally under the policy or plan. The state also enacted a law requiring health insurance policies to cover eligible young adults up to age 27. To be eligible for this coverage, young adults must be over age 17 but less than 27 years of age; not married; and either ineligible for health coverage through the young adult's employer or have premium contribution for employer coverage that exceeds the additional premium amount the parent is required to pay to all the young adult to the parent's health plan. Additional eligibility rules apply to young adults who are called to federal active duty in the National Guard or reserves while a full-time student. The

statute goes into effect for health insurance policies issued or renewed beginning on January 1, 2010. The law also enacted new coverage requirements for contraceptives and the treatment of autism spectrum disorder.

Please contact your Conner Strong representative with any questions, toll-free at 1-877-861-3220.