



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

TO: ALL INSURERS
FROM: ANDREW BORON, DIRECTOR OF INSURANCE *AEB*
DATE: May 23, 2014
RE: COMPANY BULLETIN CB 2014 - 08
DISCRIMINATION AND QUALIFIED HEALTH PLAN (QHP) CERTIFICATION OR
RECERTIFICATION FOR 2015 PLAN YEAR

Pursuant to 45 C.F.R. 156.125, *Prohibition on discrimination*, an issuer does not provide essential health benefits (EHBs) under the Affordable Care Act if its benefit design or the implementation of its benefit design, “discriminates based on an individual’s age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions.” The purpose of this bulletin is to remind issuers that this prohibition on discrimination applies equally to all health conditions, including but not limited to individuals with HIV/AIDS. Consistent with the Affordable Care Act, the Illinois Department of Insurance will not recommend certification or recertification of a plan as a Qualified Health Plan (QHP) if the plan is found to discriminate, whether in plan design or implementation, based on an insured’s medical dependency or health condition, including HIV/AIDS.

During the 2015 plan approval process, the Department of Insurance will continue to examine plans in depth to determine compliance with 45 C.F.R. 156.125.

For example, based on the consensus of medical experts, the U.S. Department of Health and Human Services has determined a list of “recommended” drug regimens for treating HIV/AIDS, and has also made a list of “alternative” drug regimens that should be considered as “recommended” under certain circumstances.¹ An insurer may be found to discriminate against people with HIV/AIDS if it fails to provide coverage for such “preferred” and “alternative” drugs.

Moreover, the Department will examine whether a plan’s medical management techniques are discriminatory by imposing unreasonable “step therapy” requirements for certain health conditions, including HIV/AIDS. Likewise, because HIV/AIDS is a chronic condition that requires continual treatment, an insurer may be found to discriminate if it redundantly requires pre-authorization for refills of HIV/AIDS medications without any justification, such as a change to the enrollee’s other prescriptions.

Any plans found to be discriminatory, whether in design or implementation will not be recommended for certification or recertification as a QHP that may be sold on the Illinois Health Insurance Marketplace.

If you have any questions, please contact Yvonne Clearwater at yvonne.clearwater@illinois.gov.

¹ U.S. Dep’t of Health and Human Servs., *Guidelines for the Use of Antiretroviral Agents in HIV-1-Infected Adults and Adolescents* (last updated May 1, 2014).