



**STATE OF NEW YORK
INSURANCE DEPARTMENT
160 WEST BROADWAY
NEW YORK, NEW YORK 10013**

NOTE: WITHDRAWN EFFECTIVE OCTOBER 11, 2002

Circular Letter No. 7 (1994)
April 27, 1994

TO: All Insurers Licensed to Write Accident and Health Insurance in New York State

RE: Health Insurers' Obligations in the Administration of Benefits for Covered Persons Receiving Services Under the New York State Early Intervention Program

Under Chapter 428 of the Laws of 1992 and Chapter 231 of the Laws of 1993, New York State has established a program intended to assure access to a comprehensive variety of needed services for children up to three years of age who are disabled or at risk of disability. The program requires that municipalities, primarily counties, identify eligible children, determine their needs and arrange for the provision of appropriate services based on close consultation and cooperation with the parents of such children.

The program mandates that municipalities providing early intervention services maximize access to third-party reimbursement where it is available. Consistent with this requirement, New York State Health Department regulations authorize such municipalities to pay any deductibles or co-payments required as a pre-condition to receiving benefits for services covered under an insurance policy or health benefit plan. In addition, several statutory provisions seek to facilitate the ability of families with children eligible for early intervention services to access their coverage under an insurance policy or health benefit plan.

Section 3235(a) of the Insurance Law prohibits insurers issuing accident and health insurance policies from charging against any maximum annual or lifetime limits in those policies any benefits paid for early intervention services provided to a covered person as a part of an Individualized Family Service Plan (IFSP) pursuant to Section 2545 of the Public Health Law.

Under Section 2559(d) of the Public Health Law, subject to receipt by the insurer or plan administrator of prior written notice, any municipality providing access to early intervention services, or its designee, is subrogated, to the extent of its expenditures for those services, to any rights to third-party reimbursement possessed by the person receiving the early intervention services. Section 3235(b) of the Insurance Law provides that any such right of subrogation shall be valid and enforceable to the extent benefits are available to the covered person under any accident and health insurance policy. These provisions require insurers to honor claims submitted by municipalities to the extent that municipalities have paid for services for children eligible for early intervention services.

All insurers providing accident and health insurance benefits in New York State should be aware of their statutory obligations under Chapter 428 of the Laws of 1992 and Chapter 231 of the Laws of 1993 and be prepared to comply with the requirements of law regarding covered services provided through the New York State early intervention program.

Very truly yours,

SALVATORE R. CURIALE
SUPERINTENDENT OF INSURANCE