

December 17, 1976

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 26 (1976)

December 17, 1976

TO: ALL INSURERS, INCLUDING ARTICLE IX-C CORPORATIONS, LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE IN NEW YORK STATE

RE: COVERAGE FOR PREADMISSION TESTS, EMERGENCY MEDICAL SERVICES, AMBULATORY CARE, AND SERVICES RENDERED IN NURSING HOMES

The basic purpose for the enactment of Chapters 928 and 929, Laws of 1976 was to provide insurance coverage for those medical services which could be performed in an out-patient or out of hospital facility rather than in the more costly in-patient hospital setting. The effective date of Chapters 928 and 929, Laws of 1976 is January 1, 1977.

This law requires insurers to include in policies providing coverage for in-patient hospital care coverage for pre-admission testing prior to surgery and coverage for emergency medical services in hospital facilities. It also requires that insurers make available coverage for:

--ambulatory care in hospital out-patient facilities and physicians' offices

--care in a nursing home following hospitalization.

Even though the legislative intent is set forth in the Law, it now appears that further clarification and interpretation regarding implementation of the law is necessary.

In order to expedite approval of policies or riders submitted to the Insurance Department for compliance with Chapters 928 and 929, Laws of 1976, the following Department interpretations and guidelines are set forth:

1. Pre-admission testing and emergency medical benefits which are required by Chapters 928 and 929, Laws of 1976, and the ambulatory care benefits which must be made available under such laws, must be provided, subject to the specific limitations set forth in the law, to the same extent and amount that such benefits would be provided to the covered person under the contract had the person receiving such benefits been a hospital in-patient. In view of the anticipated savings on in-patient costs, no significant additional cost for the pre-admission testing and emergency medical benefits is indicated. If it is the intention of an insurer to charge an additional premium for these benefits, adequate justification in the form of credible supporting data must be submitted to the Department.

2. The level of benefits for nursing home care, according to the law, must be "reasonably related" to the benefits provided for hospital care. If a policy provides a maximum amount for daily room and board benefits, a maximum benefit equal to at least 50% of the in-hospital daily room and board benefit will be considered as compliance with this requirement. If the contract provides for in-hospital service benefits, the nursing home benefits should also be provided on a service benefits basis.

3. Section 164(7) (e), New York Insurance Law, which relates only to individual accident and health insurance policies, is not superseded by Chapters 928 and 929, Laws of 1976. (Section 164,7-e provides for reimbursement for laboratory and diagnostic x-ray services to the same extent whether such services are provided on an in-patient or hospital out-patient basis.)

4. Hospital indemnity policies which do not provide coverage for miscellaneous hospital services are not policies which provide "coverage for in-patient hospital care" and, therefore, need not include the benefits required by this legislation.

5. Any additional premium charge for the inclusion of the optional ambulatory care and nursing home benefits, should be based on credible statistics and reasonable assumptions acceptable to the Department.

[SIGNATURE]

THOMAS A. HARNETT

Superintendent of Insurance