

RULE

Department of Insurance Office of the Commissioner

Regulation 100—Coverage of Prescription Drugs through a Drug Formulary (LAC 37:XIII.Chapter 141)

Pursuant to the authority granted in R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance has promulgated Regulation 100. The purpose of Regulation 100 is to implement Act 350 of the 2011 Regular Session of the Louisiana Legislature pertaining to the coverage of prescription drugs through a drug formulary as set forth in R.S. 22:1060.1 et seq., which provides for the continuation of drug coverage and notice to enrollees of modifications of drugs on the drug formularies covered by a health insurance issuer. This action complies with the statutory law administered by the Department of Insurance.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 141. Regulation 100—Coverage of Prescription Drugs through a Drug Formulary

§14101. Purpose

A. The purpose of Regulation 100 is to implement Act 350 of the 2011 Regular Session of the Louisiana Legislature pertaining to the coverage of prescription drugs through a drug formulary as set forth in R.S. 22:1060.1 et seq. which provides for the continuation of drug coverage and notice to enrollees regarding drug formularies covered by a health insurance issuer as well as any modifications made thereto. The purpose of Regulation 100 is to clarify the requirements and notice forms now mandated by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14103. Authority

A. Regulation 100 is promulgated pursuant to the authority granted in R.S. 22:11, R.S. 22:1068F and R.S. 22:1074F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14105. Applicability and Scope

A. Regulation 100 applies to all health insurance issuers as well as health maintenance organizations as defined by R.S.22:1060.1(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14107. Definitions

A. Definitions. As used in Regulation 100, the following terms shall have the meaning or definition as indicated herein.

Commissioner—commissioner of insurance for the state of Louisiana.

Enrollee—any individual, including a dependent, who is enrolled or insured by a health insurance issuer under a health benefit plan.

Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements or application forms where written application is required and is to be attached to the policy or be a part of the contract, and any health and accident or health maintenance organization rider or endorsement form.

Particular Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14109. Required Notices

A. There shall be three different and distinct types of notice that a health insurance issuer is required to provide to every applicable enrollee. Each notice shall be filed with and approved by the Department of Insurance prior to use in Louisiana.

B. Notice and Disclosure of Drug Formulary Pursuant to R.S. 22:1060.2(A)(1)(e). A health insurance issuer shall file a “Notice and Disclosure of Drug Formulary” form with the Department of Insurance as a part of its coverage documentation. The “Notice and Disclosure of Drug Formulary” shall contain all of the information enumerated in R.S. 22:1060.2. A health insurance issuer shall submit this form for approval by the commissioner. Once the form is approved by the commissioner, the health insurance issuer shall only utilize said form. A health insurance issuer shall maintain written evidence such as a record, report or data compilation of enrollees who request disclosure or information about any specific drug that is included in a formulary. The written evidence such as a record, report, or data compilation shall include the name of the enrollee, the date of request, the date of response by the health insurance issuer and the specific drug requested. A health insurance issuer shall provide a copy of the written evidence such as a record, report or data compilation as described herein to the commissioner within 15 days of written request by the commissioner.

C. Notice that Enrollee Has Right to Continuation of Coverage Pursuant to R.S. 22:1060.3. A health insurance issuer shall notify an enrollee as a part of coverage documentation that the enrollee shall have the right to continue the coverage of any prescription drug that was approved or covered by the health insurance issuer, and that the coverage of such prescription drug shall be at the contracted benefit level until the renewal of the enrollee’s current plan. A health insurance issuer shall maintain written evidence such as a record, report or data compilation of enrollees who request continuation of coverage and the name of the specific drug. The written evidence such as a record, report, or data compilation shall include the name of the enrollee, the date of request, the date of response by the health insurance issuer and the name of the specific drug requested. A health insurance issuer shall provide a copy of the written evidence such as a record, report or data

compilation as described herein to the commissioner within 15 days of written request by the commissioner.

D. Notice of Modification-Group Market Pursuant to R.S. 22:1068(D)(3) and Individual Market Pursuant to R.S. 22:1074(D)(3). A "Notice of Modification of Benefit Coverage or Drug Coverage of a Particular Product" form is required to contain the information required in R.S. 22:1068(D)(3) and 22:1074(D)(3). Such form used by a health insurance issuer shall be approved by the commissioner and no form may be used until approved by the commissioner. For group policies, such notice shall be delivered to the affected covered small group or large group employer and all enrollees at the last known address no later than the sixtieth day before any modification of benefit coverage or drug coverage of a particular product is to become effective. For individual policies, such notice shall be delivered to each affected individual at the last known address no later than the sixtieth day before any modification of benefit coverage or drug coverage of a particular product is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1027 (April 2012).

§14111. Requirements for the Modification Affecting Drug Coverage

A. A modification affecting drug coverage shall mean any of the following:

1. removing a drug from a formulary;
2. adding a requirement that an enrollee receive prior authorization for a drug;
3. imposing or altering a quantity limit for a drug;
4. imposing a step-therapy restriction for a drug;
5. moving a drug to a higher cost-sharing tier, unless a generic alternative is available.

B. A health insurance issuer shall submit a modification affecting drug coverage for approval by the commissioner 120 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in §14111.A herein. Once the modification affecting drug coverage is approved by the commissioner, a health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only then have the authority to modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14113. Enrollee's Right to Appeal Adverse Determination

A. The refusal of a health insurance issuer to provide benefits to an enrollee for a prescription drug is an adverse determination for the purposes of Subpart F of Part III of Chapter 4 of the Louisiana Insurance Code, R.S. 22:1121 et seq., relative to medical necessity review organizations, if each of the following conditions is met.

1. The drug is not included in a drug formulary used by the health benefit plan.

2. The enrollee's physician or other authorized prescriber has determined the drug is medically necessary.

B. An enrollee may appeal the adverse determination pursuant to subpart F of part III of chapter 4 of the Louisiana Insurance Code, R.S. 22:1121 et seq., relative to medical necessity review organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14115. Requirements for Modifying a Group Insurance Product

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all small or large employers covered by that group health plan.

5. The health insurance issuer, on the form approved by the Department of Insurance, notifies the small or large employer group and each enrollee therein of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1068(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14117. Requirements for Modifying an Individual Insurance Product

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all individuals with that policy form.

5. The health insurance issuer, on a form approved by the Department of Insurance, notifies each affected individual of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

§14119. Modification Affecting Drug Coverage; Approval by the Commissioner

A. To facilitate the ability of the commissioner to comply with his statutory duty, the commissioner shall have the authority to enter into a contract with any person or entity he deems applicable, relevant and/or appropriate to provide advice and/or make a recommendation to the commissioner regarding whether he should approve or deny any modification affecting drug coverage that requires prior approval from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012).

James J. Donelon
Commissioner

1204#048

RULE

Department of Treasury Registrars of Voters Employees' Retirement System

Retirement System Trustees Election Procedures (LAC 58:XVII.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the board of trustees for the Registrars of Voters Employees' Retirement System has approved these rules for the election procedure for the system's board of trustees. The rules are being adopted pursuant to section 2 of La. S.B. 2, Reg. Sess. 2011, Act 119 which provides that the board of trustees shall promulgate rules that govern the election of members of the board. This action by the Registrars of Voters Employees' Retirement System complies with statutory law administered by the agency and is promulgated in accordance with that section 2. A preamble to this action has not been prepared.

Title 58

RETIREMENT

Part XVII. Registrars of Voters Employees' Retirement System

Chapter 1. Procedures for Election of Registrars of Voters Employees' Retirement System Trustees

§101. General Election Procedures

A. The director shall issue to the Registrars of Voters Employees' Retirement System membership a notice of each trustee office to be filled between the first Monday in July and the second Friday in July via email, with qualifying form attached and placed on the website, such form to require applicant's name, parish, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between the third Monday and the fourth Friday of July. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

C. These July dates will differ only for the first year, 2011, in which the notice shall be issued as soon as reasonably possible and the notice shall adjust the time for qualifying only as minimally as possible in order to maintain the remainder of the timetable below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

§103. Ballots, Count, Tabulation, Posting, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address beginning the first Tuesday through the

second Friday of September. The ballots shall be issued to members who were active employees as of June 30 of that year and the member must be an active employee as of the date the system counts the ballot in order for that member's ballot to be counted. In addition to the ballot the director shall mail an affidavit as specified by the board of trustees, a return envelope and instructions. The director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website in late November or early December. Voted ballots shall be accepted through the first Friday in October at 4:30 p.m. A date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director. The chairman of the board shall call a special meeting to count and tabulate ballots between the first Monday in November and the last Friday in November. At this special meeting the board of trustees shall promulgate the returns and announce the results.

1. The director shall post the results of the promulgation on ROVERS' website. The director shall email each registrar notification of this posting and each registrar shall be required to download and print and post this notice in each of the registrar's offices.

2. The director shall issue to the elected trustee an oath of office. The trustee shall take the oath in the month of December and file a copy with their respective clerk of court. A copy of said oath shall be forwarded to the director. The oath shall contain a term of office effective January 1st of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

§105. Vacancy

A. Should a vacancy occur, the board shall appoint a replacement member to serve until the next regularly scheduled election. The election to fill this seat will be to fill the unexpired term of this office, unless the seat was expiring and was to be filled at the next election, in which case the election will be to fill the new term

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

Lorraine C. Dees
Director

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RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Definitions (LAC 46:LXI.105)

Editor's Note: The following Rule is being repromulgated to correct a typographical error. The original Rule can be viewed on pages 835-836 of the March 20, 2012 edition of the *Louisiana Register*.