



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Acting Superintendent

Insurance Circular Letter No. 16 (2017)  
September 28, 2017

**TO: All Insurers Authorized to Write Accident and Health Insurance in New York State, Article 43 Corporations, Health Maintenance Organizations, Student Health Plans Certified Pursuant to Insurance Law § 1124, and Municipal Cooperative Health Benefit Plans**

**RE: Health Insurance Coverage for Naloxone**

**STATUTORY AND REGULATORY REFERENCES: 42 U.S.C. § 300gg-6; 45 C.F.R. § 156.122; Insurance Law §§ 3201, 3216, 3221, 4303, and 4308; 11 NYCRR § 52.16(c) (Insurance Regulation 62)**

## **I. Purpose**

The purpose of this circular letter is to provide further direction to insurers authorized to write accident and health insurance in this state, Article 43 corporations, health maintenance organizations, student health plans certified pursuant to Insurance Law § 1124, and municipal cooperative health benefit plans (collectively “issuers”) regarding health insurance coverage for naloxone. Like many other states, New York is fighting an opioid addiction epidemic and public health crisis. Naloxone is a crucial tool in our shared fight to prevent unnecessary overdose deaths resulting from this epidemic. The increased prevalence of fentanyl in the illegal opioids being abused in this state has made the need for ready access to naloxone even more pressing.

## **II. Discussion**

As discussed in Insurance Circular Letter No. 6 (2016), individual, small group and large group policies must provide coverage for naloxone when medically necessary.

According to the federal Substance Abuse and Mental Health Services Administration’s website, naloxone is an FDA-approved prescription drug used to block or prevent the effects of opiates and opioids, such as oxycodone.<sup>1</sup> It is often used in an emergency situation to prevent or reverse the effects of an opioid overdose.

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<sup>1</sup> See <http://www.samhsa.gov/medication-assisted-treatment/treatment/naloxone>.

The Department has issued regulations requiring New York health insurance policies or contracts to provide a comprehensive package of items and services, which are known as essential health benefits (“EHB”) (Insurance Regulation 62 (11 NYCRR 52.1(q) and 52.71)). The federal Affordable Care Act contains similar EHB requirements. Pursuant to 45 C.F.R. § 156.122(a)(1), a health insurance policy or contract providing coverage in the individual or small group market would not be considered to be providing EHB unless, in relevant part, it covers at least the greater of at least one drug in every United States Pharmacopeia category and class or the same number of prescription drugs in each category and class as the EHB-benchmark plan. With respect to large groups, issuers must provide coverage for medication approved by the FDA for the detoxification or maintenance treatment of a substance use disorder in all policies and contracts issued, renewed, modified, altered or amended on or after January 1, 2017. Furthermore, 11 NYCRR § 52.16(c) prohibits issuers offering individual, small group and large group health insurance policies from limiting or excluding coverage by type of illness, accident, treatment, or medical condition.

Thus, as stated in Insurance Circular Letter No. 6 (2016), issuers should provide coverage for naloxone on an outpatient basis when prescribed to an insured by an authorized provider, as they would for any other prescribed drug, subject to the terms and conditions of the health insurance policy or contract. In addition, naloxone should also be covered on an inpatient basis when medically necessary.

Naloxone must be covered when medically necessary. Issuers may not impose any arbitrary limits on coverage for naloxone, for example, issuers may not place an annual limit on coverage for an unused naloxone prescription refill (as some issuers may be doing) unless medically warranted. When determining the appropriate dosage for naloxone coverage, issuers should keep in mind that, according to the Office of Alcohol and Substance Abuse Services, there have been cases of overdoses that involve fentanyl that have required two or more doses of naloxone to reverse the effects of the fentanyl overdose.

Please direct any questions regarding this circular letter to Thomas Fusco, Supervising Insurance Attorney, Health Bureau, New York State Department of Financial Services, Walter J. Mahoney Office Building, 65 Court Street, Room 7, Buffalo, New York 14202 or by e-mail at [thomas.fusco@dfs.ny.gov](mailto:thomas.fusco@dfs.ny.gov).

Very truly yours,



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