



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

DIRECTIVE 73 (REVISED AND REISSUED)

TO: ALL HEALTH INSURANCE ISSUERS AND HEALTH MAINTENANCE ORGANIZATIONS AND SELF-INSURERS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: COVERAGE OF CHIROPRACTIC SERVICES

DATE: OCTOBER 26, 2023

The original Directive 73 was issued on October 5, 2004, and revised and reissued on September 21, 2020. Acts 2008, No.415, §1, effective January 1, 2009, redesignated the provisions of Title 22, formerly comprising La. R.S. 22:1 to 22:3311, into a new format and numbering scheme comprising La. R.S. 22:1 to 22:2371, without changing the substance of the provisions. Directive 73 is being revised and reissued to update a statutory citation.

Charged with the duty of administering the provisions of the Louisiana insurance code, I hereby direct all health insurance issuers, health maintenance organizations, and self-insurers (collectively referred to as "issuers") to ensure that all insurance products, including limited benefit health plans, filed for approval with the Louisiana Department of Insurance (LDI) are in full compliance with the following statutory requirements:

La. R.S. 22:47(2)(a) and (c), which provide:

Insurance shall be classified as follows:

(2) Health and Accident.

(a) Insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement, or expense resulting from sickness or old age, including insurance wherein the benefits are covered at a higher level when health care is received from a defined network of health care providers, provided, however, that such insurance meets all applicable requirements of Subpart 1 of Part 1 of Chapter 2 of this Title, R.S. 22:241 et seq., for provision of coverage through designated providers of medical services.

(c) Limited benefit. Health and accident insurance policies designed, advertised, and marketed to supplement major medical insurance that includes accident-only, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision, and any other health and accident insurance, other than basic hospital expense, basic medical-surgical expense, or other major medical insurance.

La. R.S. 22:995(A)(1), which provides:

Notwithstanding any provision of any policy or contract of insurance or health benefits issued after the effective date of this Section, whenever such policy or contract provides for payment or reimbursement for any service, and such service may be legally performed by a chiropractor licensed in this state, such payment or reimbursement under such policy or contract shall not be denied the chiropractor when such service is rendered by a person so licensed. Terminology in such policy or contract deemed discriminatory against any such person or method of practice, including but not limited to the manner of payment or reimbursement under the policy, shall be null and void. The provisions of this Paragraph shall not affect any provision of the policy or contract regarding payment for services provided by a non-contracted provider.

La. R.S. 22:247, which provides:

Notwithstanding any provision of any policy or contract of insurance or health benefits issued by a health maintenance organization, whenever such policy or contract provides for payment or reimbursement for any service and such service may be legally performed by a chiropractor licensed in this state, such payment or reimbursement under such policy or contract shall not be denied when such service is rendered by a person so licensed. Terminology in such policy or contract deemed discriminatory against any such person or method of practice shall be void.

La. R.S. 22:1964(7)(b), which provides:

The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(7) Unfair Discrimination

(b) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of

premium, policy fees, or rates charged for any policy or contract of health or accident insurance or in the benefits payable thereon, or in any of the terms or conditions of such contract, or in any other manner whatever, if, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business or any other relevant factor.

La. R.S. 22:242(1), which states:

“Basic health care services” means emergency care, inpatient hospital and physician care, outpatient medical and chiropractic services, and laboratory and x- ray services. The term shall include optional coverage for mental health services for alcohol and drug abuse. With respect to chiropractic services, such services shall be provided on a referral basis at the request of the enrollee who presents a condition of an orthopedic or neurological nature necessitating referral, the treatment for which falls within the scope of a licensed chiropractor. The term shall include coverage for low-protein food products as provided in R.S. 22:246.

The LDI has consistently interpreted and implemented these statutory provisions as prohibiting the unequal treatment of chiropractors. This position has been upheld by the decision in *Chiropractic Ass'n of Louisiana v. State*, 595 So.2d 316 (La.App. 1st Cir. 1991), *writ denied*, 600 So.2d 609. The Court therein emphasized that the objective of the above-enumerated legislative enactments was to protect chiropractors from discrimination. Moreover, the court opined that a provision in the defendant's plan limiting payment for outpatient treatment commonly provided by chiropractors violated substantive law, since it resulted from “discriminatory restrictions thinly disguised as nondiscriminatory restrictions.” *Id.* at 595 So.2d 316, 320 (Emphasis added).

Additionally, Louisiana Attorney General Opinion 98-164, 1998 WL 233018 (La. A.G.), further supports the LDI's longstanding prohibition on discriminatory practices in providing access to and payment for chiropractic services. Attorney General Opinion 98- 164 states the following:

In other words, if a condition of an orthopedic or neurological nature exists, but the condition can be treated by the primary care physician, a referral is not necessary. However, if the patient must be referred and a request is made for a chiropractor or for chiropractic treatment, then the statute imposes a duty on the primary care physician to refer that enrollee (patient) to a chiropractor, provided the proposed treatment falls within the scope of a licensed chiropractor. The scope of a licensed chiropractor is outlined by Louisiana Revised Statute 37:2801.

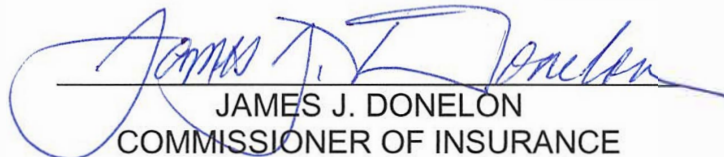
It is the position of the LDI that existing statutory provisions require issuers providing health coverage to allow the member, insured, or enrollee access to and payment for chiropractor services rendered within the chiropractor's scope of license. The contract or policy of the issuer must cover such treatment rendered by a licensed chiropractor. Additionally, the coverage provisions cannot exclude chiropractors from the definition of eligible providers, nor can they exclude or limit reimbursement for treatment rendered by a chiropractor. Any such exclusion or limitation on coverage must apply to the same or similar treatment all other eligible providers perform. Furthermore, coverage provisions that exclude or limit benefits for spinal manipulation, spinal adjustment, diathermy, massage, and physical therapy rendered in connection with the treatment of dislocation, subluxation, or misplacement of vertebrae or strains and sprains of soft tissues related to the spine are considered discriminatory and prohibited by the above-cited statutes.

Insurance policies or contracts containing discriminatory language will not be approved, and any such language in existing contracts is unenforceable. Such policies or contracts may not be relied upon as grounds for denying claims or making unequal payments to providers. Policies or contracts not conforming to this Directive are presently in violation of the law and must be modified to bring them into compliance with the law. Furthermore, the LDI intends to strictly enforce the statutory requirements allowing access to chiropractic care and the ability of a member, an enrollee or an insured to seek and receive referrals for covered chiropractic services when medically necessary.

If there are any questions or concerns regarding Directive 73 (Revised and Reissued), please contact the Deputy Commissioner for the Office of Health, Life and Annuity at (225) 342-1355 or electronically at public@ldi.la.gov.

Please be governed accordingly.

Baton Rouge, Louisiana, this 26th day of October 2023.



JAMES J. DONELON
COMMISSIONER OF INSURANCE