

State of Rhode Island and Providence Plantations
OFFICE OF THE HEALTH INSURANCE COMMISSIONER
1511 Pontiac Ave
Building 69, 1st floor
Cranston, RI 02920

OFFICE OF THE HEALTH INSURANCE COMMISSIONER REGULATION 14
TOBACCO CESSATION TREATMENT COVERAGE

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Preamble

According to the Centers for Disease Control, smoking accounts for an estimated 438,000 deaths, or nearly 1 of every 5 deaths, each year in the United States. More deaths are caused each year by tobacco use than by all deaths from human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, suicides, and murders combined.¹ In addition, the economic costs of smoking in the United States are estimated at \$167 billion annually (\$92 billion in productivity losses from premature death and \$75.5 billion in health care expenditures).² State government can reduce tobacco use, save lives and reduce overall health care expenditures by improving accessibility to smoking cessation programs. This regulation sets out to (1) improve access to smoking cessation by establishing uniform standards for cessation treatment coverage, (2) further define tobacco cessation treatments to include treatments included in the most recent clinical practice guideline sponsored by United States Department of Health and Human Services and (3) improve transparency of tobacco cessation coverage for Rhode Island's insured population.

¹ Centers for Disease Control and Prevention, "Smoking and Tobacco Use, Fact Sheet," *available at* www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/health_effects.htm (last viewed April 21, 2009).

² Centers for Disease Control and Prevention, "Cigarette Smoking Among Adults - United States, 2006," *Morbidity and Mortality Weekly Report*, November 9, 2007 / 56(44);1157-1161, available at www.cdc.gov/mmwr/preview/mmwrhtml/mm5644a2.htm (last viewed Jan. 16, 2009).

Section 1 Authority

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 27-18-66, 27-19-57, 27-20-53, 27-41-70, 42-14-5, 42-14-17, and 42-14.5-1 *et seq.*

Section 2 Purpose

This regulation establishes consistent cessation treatment coverage across health insurance carriers, further defines tobacco cessation treatments to include treatments included in the most recent clinical practice guideline issued by the federal government, and promotes transparency of coverage to enhance access by insureds.

Section 3 Standards for Tobacco Cessation Treatment Coverage

- (a) Every individual or group health insurance contract, plan or policy delivered, issued for delivery or renewed in this state that provides medical coverage that includes coverage for physician services in a physician's office or that provides major medical or similar comprehensive-type coverage shall include coverage for smoking cessation treatment, provided that if such medical coverage does not include prescription drug coverage, such contract, plan or policy shall not be required to include coverage for prescription nicotine replacement therapy or any prescription drugs. Such medical coverage will, however, be required to provide outpatient counseling benefits for smoking cessation.
- (b) As used in this regulation, smoking cessation treatment includes:
 - (i) the use of over-the-counter or prescription nicotine replacement therapy approved by the United States Food and Drug Administration when recommended and prescribed by a prescriber who holds prescriptive privileges in the state in which the prescriber is licensed, and used in combination with an annual outpatient benefit of eight (8) one-half (1/2) hour smoking cessation counseling sessions provided by a qualified practitioner for each covered individual; and
 - (ii) the tobacco dependence treatments identified as effective in the most recent clinical practice guideline published by the United States Department of Health and Human Services for treating tobacco use and dependence.³
- (c) Nicotine replacement therapy includes but is not limited to nicotine gum, patches, lozenges, nasal spray, and inhaler.
- (d) Cessation counseling as described in subsection (b)(i) of this Section may include in-person counseling, telephone counseling or group cessation classes for eight (8) one-half (1/2) hour sessions or its equivalent. Cessation counseling covered by subsection (b)(ii) of this Section includes any counseling recommended by the clinical practice guideline.
- (e) A qualified practitioner as described in subsection (b)(i) of this Section may include but is not limited to doctor of medicine, nurse practitioner, doctor of osteopathic medicine,

³ The most recent guideline is Fiore MC, Bailey WC, Cohen SJ, et al. Treating Tobacco Use and Dependence. A Clinical Practice Guideline. US Department of Health and Human Services. Public Health Service, 2008, available at www.ncbi.nlm.nih.gov/books/bv.fcgi?rid=hstat2.chapter.28163 (last visited April 21, 2009). Should this guideline be superseded or updated, the superseding or updating guideline will apply.

physician assistant, certified nurse midwife, clinical social worker, psychologist, and tobacco treatment specialist.

- (f) Health insurance contracts, plans, or policies to which this regulation applies, may impose copayments and/or deductibles for smoking cessation treatment mandated by this section consistent with the contracts', plans' or policies' copayments and/or deductibles for physician services and medications. Nothing contained in this regulation shall impact the reimbursement, medical necessity or utilization review, managed care, or case management practices of these health insurance contracts, plans or policies.
- (g) This section shall not apply to insurance coverage providing benefits for:
 - (1) Hospital confinement indemnity;
 - (2) Disability income;
 - (3) Accident only;
 - (4) Long-term care;
 - (5) Medicare supplement;
 - (6) Limited benefit health;
 - (7) Specified disease indemnity;
 - (8) Sickness or bodily injury or death by accident or both; and
 - (9) Other limited benefit policies.

Section 4 Reporting

- (a) Each carrier that issues an individual or group health insurance contract, plan or policy subject to this regulation shall, no later than March 15 of each year, submit to the Director of the Department of Health a report describing the carrier's compliance with this regulation during the previous calendar year. Such report shall substantially conform to the model report set out in the Appendix of this regulation.
- (b) Any carrier that fails to submit a report to the Department of Health as required by this regulation shall be subject to the administrative penalties by the Office of the Health Insurance Commissioner as provided for in R.I. Gen. Laws § 42-14-16.

Section 5 Severability

If any provision of this regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this regulation are severable.

Section 6 Effective Date

This regulation shall be effective as indicated below.

EFFECTIVE DATE: AUGUST 14, 2009

**Appendix
Cessation Treatment Coverage Annual Report**



Instructions:

Please complete this form regarding your cessation treatment coverage no later than March 15 of each year. The form should contain information about your cessation treatment coverage for the previous calendar year. Please send this form to:

**Tobacco Control Program
Rhode Island Department of Health
3 Capitol Hill, Room 409
Providence, RI 02906**

Name of Carrier

Calendar Year Covered by the Report

Date of Completion

Name of Contact Person

Contact Phone Number

Contact Email

On a separate sheet (or sheets), please answer the following questions.

1. During the last calendar year, what were your utilization rates (by number of beneficiaries) for the pharmacotherapy and counseling benefit? Please include data for each of type of pharmacotherapy and counseling benefit covered.
2. Do you have any evaluation of your tobacco cessation services with quit rates? If so, please include.
3. Does your cessation benefit vary for based on the in-network and out-of-network status of the providers, pharmacies or tobacco treatment specialists who provide covered benefits and/or pharmaceuticals? If so, please describe.
4. How many beneficiaries covered by your fully-insured products are covered by Rhode Island's tobacco cessation mandated benefited? How many beneficiaries covered by your self-insured products are covered by any form of smoking/tobacco cessation benefit? How many beneficiaries covered by your self-insured business are not covered by any form of smoking/tobacco cessation benefit?
5. Please provide a list of certified tobacco treatment specialists conducting cessation counseling for you.

Any inquiries related to the completion of this form should be directed to:

Manager, Tobacco Control Program
Rhode Island Dept. of Health
3 Capitol Hill, Room 409
Providence, RI 02908-5097
Tel. (401) 222-7463
Fax. (401) 222-4415