



March 24, 2023

Mr. Timothy Schott, Acting Superintendent  
Maine Bureau of Insurance  
34 State House Station  
Augusta, Maine 04333-0034

**Re: Comments on Proposed 2024 Clear Choice Plan Designs**

Dear Acting Superintendent Schott:

Thank you for the opportunity to comment on the proposed 2024 Clear Choice plan designs. To follow are our comments and questions with respect to the versions of proposed 2024 Clear Choice plan designs entitled “Draft Clear Choice Share Plan Design Chart 2024” and “Draft Clear Choice Share Plan Design Chart 2024 with OT-PT Copays”.

1. The Bureau has proposed to discontinue two Clear Choice Silver HSA plans—the Clear Choice Silver 3000 HSA plan and the Clear Choice Silver 3500 HSA plan. While we have no objection to the discontinuation of these two plans, we would note that under these two HSA plans, the prescription drug benefit is subject to deductible and copay, while the remaining plans proposed for 2024 have the prescription drug benefit subject to deductible and coinsurance. We would strongly suggest that at least one of the 2024 the remaining Silver HSA plans have deductible/copay for the pharmacy benefit.
2. Rule chapter 851 provides that the discontinuance or modification of a health plan is considered a benefit modification required by law in accordance with 24 A M.R.S. §2850-B(3)(I)(3) if the Superintendent discontinues or materially modifies a Clear Choice design and the carrier maps enrollees to a new Clear Choice plan designated by the Superintendent as an appropriate replacement.<sup>1</sup> Will carriers be permitted to map existing policyholders to a different plan offered by the carrier, subject to the approval of the Superintendent, as part of the rate filing process, as has been done with plan discontinuations in the past?
3. The two remaining Silver HSA plans (Clear Choice Silver 4000 HSA and Clear Choice Silver 4500 HSA) have a differential of only \$500 between the deductibles. We would suggest that the plans have a larger deductible spread; for example, perhaps the Clear Choice Silver 3500 HSA and Clear Choice Silver 4500 HSA.

---

<sup>1</sup> Bureau of Insurance Rule Chapter 851(4)(4)(A), emphasis added.

4. The Clear Choice Bronze 7500 does not meet mental health parity testing again this year with the specialist cost share set at Deductible and 50% coinsurance. In both 2022 and 2023, we have had to move the cost share to Deductible/\$80 copay.
5. With respect to the Clear Choice Silver 4200, due to the low Actuarial Value and tiering, we had to lower the PCP copay from \$50 to \$35 and the Tier 1 generic copay from \$25 to \$20 in order to meet AV. There is no change that can be made to Tier 2 that would make the plan AV compliant with those two costs shares set at the higher amounts.
6. We strongly urge the Bureau to establish the benefit parameters for fertility coverage pursuant to P.L. 2021, c. 692. One of the stated purposes of Clear Choice Plan Designs is to enable consumers to compare plans on an “apples to apples” basis. If the Bureau does not establish the cost sharing parameters for this new and expensive benefit, there may be significant variances in the way the benefit is covered by carriers in the merged market, which runs contrary to the very notion underlying the requirement to offer Clear Choice plan designs. By way of example, our small group plans that include an infertility benefit apply deductible and coinsurance to the benefit. The State of Maine Employee Health Plan applies 80% Coinsurance after Deductible for in network providers and has a lifetime benefit maximum of \$10,000 (applicable to all medical infertility treatments).
7. Finally, with respect to the proposal to establish specific copays for occupational and physical therapy, we estimate this will represent a 0.5% increase in premium. We are concerned about the impact of this increase on affordability, particularly since it comes at a time when medical trend is increasing, and new and expensive mandated benefits will apply in 2024. While we certainly understand the intent behind this proposal, we are concerned about the premium impact and suggest that this be deferred for future consideration. In addition, speech therapy is generally included with the occupational and physical therapy benefits. If the Bureau moves forward with this proposal, how will speech therapy be treated—will it also be subject to copays, which will further increase costs, or can it be subject to deductible and coinsurance, which may lead to member confusion? We recommend that the Bureau move forward with the original proposal, without specifying cost-shares for physical and occupational therapy.

Thank you again for the opportunity to share these comments and suggestions. We would be happy to answer any questions you might have.

Sincerely,



Kristine M. Ossenfort, Esq.  
Senior Government Relations Director

Cc: Marti Hooper, ASA, MAAA, Life and Health Actuary  
Karma Lombard