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TO: Participating Agency & Participating Employer Chief Executive Officers & Health Benefits Administrators

FROM: Employee Benefits Division

SUBJECT: Patient Protection and Affordable Care Act (PPACA) 90-Day Waiting Period Limitation

DATE: November 22, 2013

Continuing NYSHIP's practice of informing Participating Agencies and Participating Employers about issues related to health insurance coverage under the Patient Protection and Affordable Care Act (PPACA), we are advising you of the 90-day waiting period limitation. Effective January 1, 2014, PPACA prohibits group health plans and health insurance issuers from establishing a waiting period greater than 90 days for coverage to take effect once the employee has satisfied the eligibility conditions established by an employer.

A waiting period is the period of time that must pass before coverage for an employee or dependent, who is otherwise eligible to enroll under the terms of the plan, can become effective. An employee and dependent are eligible for coverage once the plan's substantive eligibility conditions have been met. The 90-day waiting period would take effect once the employee has met the eligibility conditions and elected to enroll in employer sponsored coverage. The 90-day waiting period limitation applies to both eligible full-time and part-time employees.

Current NYSHIP regulations permit a six-month waiting period for health insurance coverage to become effective once the eligibility requirements have been met. Effective January 1, 2014, NYSHIP has changed its current six-month waiting period limit to a 90-day waiting period limit. **It is the employer's responsibility to establish an effective date of coverage for eligible employees that satisfies the requirements of the 90-Day waiting period limitation for employer sponsored health insurance coverage.**

Employees in a Waiting Period on January 1, 2014 that Exceeds 90 Days

Employees hired in 2013, who will be in a waiting period that prospectively extends beyond January 1, 2014, cannot be required to wait more than 90 days for their coverage to become effective. For example, if an employee was hired on October 1, 2013 and was required to wait six months for health coverage to take effect, their health insurance would be effective January 1,

2014. In this example the employee will have already waited 93 days on January 1, 2014 and thereby in excess of the 90-day limitation.

Untimely Requests

Under the regulation, if an employee takes additional time to elect coverage once eligible, the plan or issuer will not be held at fault if the effective date of coverage surpasses the 90-day waiting period limitation. This applies equally to both employees and dependents.

Resources

Federal Register Vol. 78, No.55 released on March 21, 2013 outlines the proposed rules. This document can be viewed at the following link: www.gpo.gov/fdsys/pkg/FR-2013-03-21/pdf/2013-06454.pdf . Additionally, The Department of Labor released FAQs on September 4, 2013, which can be viewed at the following link: www.dol.gov/ebsa/faqs/faq-aca16.html

The requirements of PPACA are external to NYSHIP policy, but related in their implications and consequences. We will continue our practice of informing Participating Agencies and Participating Employers of PPACA requirements; however, this memo does not constitute compliance or legal advice for employers participating in NYSHIP.