§11315. Financial Statement Requirements

A. The following requirement is applicable only to health insurance issuers that offer LaChoice policies. Such health insurance issuers shall be required to report LaChoice business in a supplemental worksheet to the annual statement in a format to be provided by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11317. Discontinuation of Product Type

A. When a health insurer issuer decides to discontinue offering policies pursuant to the LaChoice program, R.S. 22:250.7(C)(1)(a),(b),(c) and (d) shall be applicable in the discontinuation of such product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11319. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstance are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

Chapter 115. Regulation 90—Payment of Pharmacy and Pharmacist Claims

§11501. Purpose

A. The purpose of Regulation 90 is to implement R.S. 22:250.51-62 relative to the making of the prompt and correct payment for prescription drugs, other products and supplies, and pharmacist services covered under insurance or other contracts that provide for pharmacy benefits. It is the intent of the legislature that payments for covered prescription drugs, other products and supplies, and pharmacist services provided by pharmacists and pharmacies are paid timely. It is also the intent of the legislature that the provisions of this Part shall be interpreted to achieve these ends. Additionally, these statutory provisions establish the intent of the legislature to assure that pharmacists and pharmacies who submit claims for covered prescription drugs, other products and supplies, and pharmacist services are paid timely and payments are based on calculations that reflect nationally recognized pricing references such as average wholesale price and maximum allowable cost.

B. To carry out the intent of the legislature and assure full compliance with the applicable statutory provisions, this regulation sets forth the standards for payment of claims for prescription drugs, pharmaceutical products and pharmacists services on behalf of health insurance issuers including, health maintenance organizations, to pharmacies and pharmacists and supersedes current regulations on uniform claim forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1662 (August 2007).

§11503. Scope and Applicability

A. Except as otherwise specifically provided, the requirements of Regulation 90 apply to all health insurance issuers including health maintenance organizations that offer coverage in their insurance contracts for pharmacy services in accordance with the statutory requirements of Part VI-F of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950, R.S. 22:250.51 et seq. Additionally, Regulation 90 applies to all contracts between a pharmacist and/or, pharmacy and/or a health insurance issuer, its agent, or any other party responsible for reimbursement for prescription drugs, other products and supplies, and pharmacist services. Any and all contracts entered into after July 1, 2005 shall be required to be in compliance with R.S. 22:250.51 et seq. Additionally, Regulation 90 shall apply to all contracts in existence prior to July 1, 2005. Regulation 90 shall include but not be limited to those contracts that contain any automatic renewal provisions, renewal provisions that renew if not otherwise notified by a party, any provision that allows a party the opportunity to opt out of the contract, evergreen contracts, or rollover contracts and therefore these contracts shall be required to come into compliance. Regulation 90 shall apply to all contracts as enumerated above as of the first renewal date, first opt out date, first rollover date or first annual anniversary on or after July 1, 2005.

B. Notwithstanding any provision to the contrary in any contract, evergreen contract, rollover contract or any agreement or contract that contains any automatic renewal provision, renewal provision that renews if not otherwise notified by a party or any provision that allows a party the opportunity to opt out of the contract, any and all contracts shall comply with Regulation 90 as of January 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007).

§11505. Definitions

Agent—a person or entity designated by a health insurance issuer to act on behalf of, or in place of, a health insurance issuer for purposes of the payment and adjudication of claims for prescription drugs, other products and supplies, and pharmacist services.

Commissioner—the Commissioner of Insurance

Covered Benefits—benefits available to a covered person under an insurance policy, benefit plan, or other contract for coverage of pharmacy benefits which also includes any covered prescription drugs, other products and supplies, and pharmacist services. The term shall not include prescription drug benefits offered through and regulated by the Centers for Medicare and Medicaid Services.

Covered Person—an insured, enrollee, member, or subscriber. In the case of a minor, the term includes an insured or legal guardian authorized to act in the best interest of such minor and therefore acts on behalf of the covered person.

Date upon Which a Correctly Completed Uniform Claim Is Furnished—the date the non-electronic uniform claim form is received by the health insurance issuer, health maintenance organization, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will use the postmark date of claims to determine if the date of receipt reasonably reflects the date claims are actually received by the health insurance issuers.

Date upon Which an Electronic Claim Is Adjudicate—the date an electronic claim is determined to be payable by the health insurance issuer, its agent or other party that makes payment directly to the pharmacy, pharmacist, insured, member, subscriber, or enrollee. For health insurance issuer examinations, the department will review the date the electronic claim was submitted and adjudicated by health insurance issuers.

Department—the Louisiana Department of Insurance.

Evergreen Contract—includes but is not limited to the following:

1. a contract for an initial fixed term that contains a provision extending the terms of the existing contract beyond its expiration date, for a definite or indefinite period of time, and is terminable at the option of a party with notice provided to the other party within a specified period of time;

2. perpetual agreements that contain an initial fixed term and terminable only by written notice from a party given within a specified period of time;

3. a contract with an initial term that is extended beyond its expiration date and terminable only by written notice from a party;

4. a contract that continues in perpetuity for either a definite or indefinite period of time that is terminable at the option of a party after giving required notice;

5. a contract with an initial term that is extended beyond its expiration date and continues in perpetuity until its duration specified in the contract or terminable only by written notice from a party.

Just and Reasonable Grounds Such as Would Put a Reasonable and Prudent Businessman on His Guard—an articulable set of facts, as opposed to mere speculation or assumption, that fully complies with established jurisprudence. For health insurance issuer examinations, the department will reasonably determine whether denials are based on an articulable set of facts.

Rollover—includes but is not limited to the following:

1. a contract for an initial fixed term that expires and is on or after expiration of the original fixed term, rolled over by affirmative action of a party to form a new contract or amend the existing contract for an additional period of time;

2. a contract that is formed or amended by affirmative action of a party on or after the expiration date of the existing contract;

3. a contract that can be rolled over by affirmative action of a party at any time after the existing contract's original terms or any extension of it that was entered into prior to (or after) its original expiration date;

4. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the contract, after the expiration or extension of the existing contract, to either form a new contract or amend the contract for an additional specified term;

5. an existing contract with specific terms that expire and is extended by affirmative action taken by a party to the contract, after expiration of the existing contract, to either form or amend the contract for an additional specified term.

Paid Date—the date a claim is adjudicated and any amount due and payable is released by the health insurance issuer, its agent, or other third party that makes payment directly to the pharmacy, pharmacist, member, enrollee, subscriber or policyholder. Any difference between the date of adjudication and the date the payment is released is required to be documented in the health insurance issuer's claim handling procedures filed with the department.

Prohibited Billing Activities—those activities outlined in R.S. 22:250.41 et seq.

Uniform Claim Forms--are forms prescribed by the department and shall include the National Uniform Bill-82 (UB-82) or its successor for appropriate hospital services, and the current Health Care Financing Administration Form 1500 or its successor for physical and other appropriate professional services. If, after consultation with insurers, providers, and consumer groups, the commissioner determines that the state assignable portions of either form should be revised, he shall make a revision request to the State Uniform Bill Implementation Committee and if approved, prescribe the use of the revised form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007).

§11507. Claim Handling Procedures for Non-Electronic Claims

A. Pursuant to R.S. 22:250.53.B, health insurance issuers or health maintenance organizations are required to submit to the Department, for approval, a "Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of non-electronic claims and procedures in place to ensure compliance with R.S. 22:250.41 et seq. The Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims shall include, but not be limited to, the following:

1. a process for documenting the date of actual receipt of non-electronic claims; and

2. a process for reviewing non-electronic claims for accuracy and acceptability.

B. The filing of the Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims document shall indicate compliance by a health insurance issuer or health maintenance organization with the filing requirements of R.S. 22:250.53. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to be not in compliance with the substantive requirements of R.S. 22:250.53.

C. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11509. Claim Handling Procedures for Electronic Claims

A. Pursuant to R.S. 22:250.54, health insurance issuers and health maintenance organizations are required to submit to the department, for approval, a "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of electronic claims and procedures in place to ensure compliance with R.S. 22:250.54 et seq. The "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" shall include, but not be limited to, the following:

1. a process for electronically dating the time and date of actual receipt of electronic claims;

2. a process for reviewing electronic review of transmitted claims for accuracy and acceptability; and

3. a process for reporting all claims rejected during electronic transmission and the reason for the rejection.

B. Health insurance issuers and health maintenance organizations are required to submit to the department their current claims address and to advise the department, in writing, of any change of the claims address.

C. The filing of the "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" document shall indicate compliance by a health insurance issuer and health maintenance organization with the filing requirements of R.S. 22:250.54. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to not be in compliance with the substantive requirements of R.S. 22:250.54.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11511. State of Emergency

A. Pursuant to any Executive Order issued by the governor transferring authority to the department on matters pertaining to insurance, and pursuant to the plenary authority vested in the commissioner under Title 22, the department shall be authorized to issue emergency regulations during a state of emergency that suspends and/or interrupts any of the provisions found in Title 22 or take any or all such action that the commissioner deems necessary in reference to provisions in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11513. Severability Clause

A. If any Section or provision of Regulation 90 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions that can be given effect without the invalid sections or provisions or application, and for these purposes, the Sections or provisions of this regulation and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007).

§11515. Effective Date

A. Regulation 90 shall become effective upon final publication in the *Louisiana Register.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1665 (August 2007).