

# State of Connecticut



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Via e-regulations system

November 21, 2017

Legislative Regulation Review Committee  
Room 011  
State Capitol  
Hartford, CT 06106  
Attention: Kirstin L. Breiner, Administrator

Re: Proposed Amended Regulations Concerning Group Health, Drug Formulary, and Small Employer Group Health Rate Review

Dear Senator Doyle, Representative Carpino, Senator Kelly, Representative Johnson, and Committee Members:

In accordance with section 4-170 of the Connecticut General Statutes, the Connecticut Insurance Department hereby re-submits the original of the above-referenced proposed regulation bearing the approval of the Attorney General issued February 16, 2017, August 22, 2017, and November 21, 2017 as to legal sufficiency and the final fiscal note prepared in accordance with section 4-168 of the Connecticut General Statutes. This submission has been prepared in the format mandated by your Committee in rules issued February 21, 2013.

The purpose of these proposed amendments are pursuant to the requirements contained in Conn. Gen. Stat. 38a-513(a)(1); Conn. Gen. Stat. 38a-481(a); and Conn. Gen. Stat. 38a-513(a)(2). The amendments reflect updates to existing regulations to conform to the current statutes and requirements. The changes to the regulations codify current practice. On April 25, 2017 and September 26, 2017, the regulations were rejected without prejudice. These regulations are being resubmitted under CGS § 4-170(e). The Department made all but two of the substantive and all technical corrections requested in the LCO memo. The Department also made additional changes that took longer than anticipated and are described below.

## **Summary of Changes Made:**

### **LCO Substantive Concerns:**

1. On page 10, in section 38a-513-2(f)(3), the citation to "section 38a-513-4(c)(3) of the Regulations of Connecticut State Agencies" is not correct and it is unclear what citation is intended.
2. On page 15, in section 38a-513-3(s), within the definition of "Total Disability" subdivisions (1) and (2) irreconcilably conflict with one another. This definition should be clarified.
3. On page 18, in sections 38a-513-4(g)(2) and (g) (8), the citations to "subdivisions (14)(A) and (14)(B) of this subsection" are incorrect and it is not clear what citations are intended.

LCO Technical Corrections:

1. Throughout the proposed regulations, numbers are expressed differently (e.g., "one thousand dollars (\$1,000)", "\$30.00", "50%", "eighty percent (80%)", "sixty-five (65)", "62"). One format should be selected and used consistently throughout.
2. On page 1, in section 38a-481-1, in the introductory language, "As used in Sections 38a-481-1 to 38a-481-[9] 12, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:" should be "As used in Sections 38a-481-1 to [38a-481-9] 38a-481-13, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:" for accuracy.
3. On page 1, in section 38a-481-1(2), an underlined period should be inserted after "Insurance Department" for consistency.
4. On page 1, in section 38a-481-1(10), "therapeutics Committee" should be "therapeutics committee" for consistency.
5. On page 3, in section 38a-481-10, "Committees" should be "committees" for consistency; and "shall be in form" should be "shall be in a form" for proper form.
6. On page 3, in section 38a-481-11, in the introductory language, "State" should be "state" for consistency.
7. On page 3, in section 38a-481-11(3), "specialty drugs" should be "specialty drug tiers" for consistency.
8. On page 4, in section 38a-481-12(c)(2), "member" should be "enrollee" for consistency.
9. On page 4, in the section heading of section 38a-481-13, "(NEW)" should be inserted before "Sec." for proper form; and "Insureds Regarding Formulary Changes" should be "insureds regarding formulary changes" for consistency.
10. On page 4, in section 38a-481-13, "days of advanced notice" should be "days' advance notice" for consistency and proper form; and "each insured utilizing a specific drug when that drug will be removed from the formulary or changed within the structure of prescription drug benefits" should be "each insured under the policy utilizing a prescription drug within the formulary before the insurer may remove such prescription drug from the formulary or make any change to the structure of prescription drug benefits under such policy" for clarity and in accordance with the committee's directive regarding mandates.
11. On page 8, in section 38a-513-1(3), an underlined period should be inserted after "Insurance Department" for consistency.
12. On page 8, in section 38a-513-1(8), "Group Specified Disease Policy" should be "Group specified disease policy" for proper form; and "section 38-513-1(c)" should be "section 38a\_513-1(c)", for accuracy.
13. On page 8, in section 38a-513-1(12), an underlined period should be inserted after "Statutes" for consistency.
14. On page 9, in section 38a-513-1(13), "One Period of Confinement" should be "One period of confinement" for consistency.
15. On page 9, in section 38a-513-1(14), "Therapeutics committee" should be "therapeutics committee" for consistency.
16. On page 9, in section 38a-513-2(a), "section 38a-513-1(28)" should be "section 38a-513-1(b)(5)" for accuracy and "subject to the further exception that a" should be "except" for clarity.
17. On page 10, in section 38a-513-2(f)(6), the period should be a semicolon for consistency.
18. On page 10, in section 38a-513-2(f)(7), the comma after "38a-517b" should be deleted for proper form.
19. On page 10, in section 38a-513-2(g), "Section" should be "section" for consistency.
20. On page 11, in section 38a-513-3(a)(2), "explanatory" should be "explanation" for accuracy.
21. On page 11, in section 38a-513-3(a)(4), "policy" should be "coverage" and "contract" should be "policy" for consistency.
22. On page 13, in section 38a-513-3(g), "section 38-513-1(c)" should be "38a-513-1(c)" for accuracy.
23. On page 13, in section 38a-513-3(i), "subsection (b) of this section" should be "section 38a-513-1(b) of the Regulations of Connecticut State Agencies" and "subsection (c) of this section" should be "section 38a-513-1(c) of the Regulations of Connecticut State Agencies", for accuracy.

24. On page 14, in section 38a-513-3(k), a space should be inserted between "(k)" and "Hospital" and the set of closed quotation marks before "Hospital" should be a set of opening quotation marks for proper form.
25. On page 14, in section 38a-513-3(l), a space should be inserted between "(l)" and "Medicare" and the set of closed quotation marks before "Medicare" should be a set of opening quotation marks for proper form.
26. On page 14, in section 38a-513-3(m), "registered nurse or a licensed practical nurse" should be "registered nurse or licensed practical nurse" for consistency.
27. On page 14, in section 38a-513-3(o), a space should be inserted between "(o)" and "Physician" and the set of closed quotation marks before "Physician" should be a set of opening quotation marks for proper form.
28. On page 15, in section 38a-513-3(s)(1), "occupation," or Engage" should be "occupation"; or engage" for proper form.
29. On page 15, in section 38a-513-3(s)(2), "occupation," or Engage" should be "occupation"; or engage" for proper form.
30. On page 16, in section 38a-513-4(b), "Hospital Confinement Indemnity" should be "Hospital confinement indemnity" for consistency.
31. On page 16, in section 38a-513-4(c), "Disability Income Protection" should be "Disability income protection" for consistency.
32. On pages 16 and 17, in sections 38a-513-4(b)(2) and 38a-513-4(c)(2), respectively, "described in" should be "described pursuant to" for clarity.
33. On page 17, in section 38a-513-4(d), "ONLY" should be "only" for proper form.
34. On page 17, in section 38a-513-4(d)(2), "described in" should be "described pursuant to" for clarity.
35. On page 17, in section 38a-513-4(e), "ONLY" should be "only" for consistency.
36. On page 17, in section 38a-513-4(e)(2), "described in" should be "described pursuant to" for clarity.
37. On page 17, in section 38a-513-4(f)(2), "described in" should be "described pursuant to" for clarity.
38. On page 17, in section 38a-513-4(g), "Specified Disease" should be "Specified disease" for consistency.
39. On page 20, in section 38a-513-4(g)(13)(B), designators "(1)" to "(3)", inclusive, should be "(i)" to "(iii)", respectively, for proper form.
40. On page 21, in section 38a-513-4(g)(14)(E), "described in" should be "described pursuant to" for clarity.
41. On page 21, in the section heading of section 38a-513-5, "Formulary Annual Filing Requirements" should be "formulary annual filing requirements" for consistency.
42. On page 21, in section 38a-513-5, "Committees" should be "committees" for consistency; and "shall be in form" should be "shall be in a form" for clarity.
43. On page 21, in section 38a-513-6, in the introductory language, "State" should be "state" for consistency; and designators "(a)" to "(j)", inclusive, should be "(1)" to "(10)", respectively, for proper form.
44. On page 22, in the section heading of section 38a-513-8, "(NEW)" should be inserted before "Sec." for proper form; and "Insureds Regarding Formulary Changes" should be "insureds regarding formulary changes" for consistency.
45. On page 22, in section 38a-513-8, "days of advanced notice" should be "days' advance notice" for consistency; and "each insured utilizing a specific drug when that drug will be removed from the formulary or changed within the structure of prescription drug benefits" should be "each insured under the policy utilizing a prescription drug within the formulary before the insurer may remove such prescription drug from the formulary or make any change to the structure of prescription drug benefits under such policy" for clarity and in accordance with the committee's directive regarding mandates.

LCO Substantive Changes Not Made:

1. "On page 17, in sections 38a-513-3(d)(1), (e)(1) and (f) (1), the citations to "section 38a-513-4(a)(13) of the Regulations of Connecticut State Agencies" is not correct but it is unclear what citation is intended." The Department notes that LCO may have had a typo. On page 17, the section LCO refers to in this substantive change is in sections 38a-513-4(d)(1), (e)(1) and (f) (1) rather than 38a-513-3(d)(1), (e)(1) and (f) (1). The Department made the requested change in section 38a-513-4(d)(1), (e)(1) and (f) (1) on page 17.
2. "On page 18, section 38a-513-4(g)(3) of the proposed regulations provides for a conversion privilege to an individual specified disease policy in the event a group specified disease policy is cancelled, nonrenewed or terminated; however, section 38a-513 of the Connecticut General Statutes authorizes regulations only for group specified disease policies. Accordingly, the application of such provision is unclear." The Department declines to make this change. On p. 18, section 38a-513-4(g)(3) requires all group policies and certificates to include a provision that allows the group certificate holders to continue coverage under the group plan or alternatively convert to an individual specified disease policy if the certificate holder is no longer part of the group or if the group policy is cancelled, non-renewed or terminated. This is an important consumer protection in group policies as the certificate holder generally pays 100% of the premium and would otherwise lose this coverage if no longer an eligible member of the group. Conversion privileges are standard provisions in many group policies and certificates to ensure the consumer can retain the coverage that has been paid for under the group plan without evidence of insurability, pre-existing condition limitations or waiting periods. It is important to note that allowing a certificate holder to convert to an individual policy is in no way regulating individual policies, but is instead regulating the group policy on which conversion is being allowed.

Additional Changes Made:

1. The Department amended "the certificateholder" to read "the policyholder" in various places for clarification.
2. Sec. 38a-513-3: Removed 38a-513-3(a)(3) because it was not clear to prevent confusion.
3. Sec. 38a-513-3: Removed 38a-513-3(a)(4) because it was not clear who an "insured" is, whether insureds may cover dependents irrespective of coverage on themselves, whether this applies to strictly AD&D coverage or if AD&D is intended to be an ancillary rider coverage.
4. Sec. 38a-513-4: Removed the claim repayment for returned policies because it was not clear, since the policy will be considered to not have been in effect, any claims paid under the returned policy will need to be repaid, either through reduction of the premium returned or by direct repayment.
5. The cross reference in subdivision (a) to Sec. 38a-513-1(28) needed to be updated to reflect new subsection numbers.
6. Sec. 38a-513-3: Minimum standards for group health insurance benefits - We removed language that made a reference to two (2) subsections that had been moved.
7. Sec. 38a-513-4: Required provisions for group health insurance benefits - Subdivision references in (g)(2) and (g)(8) were updated from 14(A) and (B) to 13(A) and (B).

As always, if you have any questions concerning this proposed regulation please do not hesitate to call me or Kristin Campanelli, Counsel at 860-297-3947. Thank you for your anticipated assistance and cooperation in this matter.

Sincerely,



Katharine L. Wade  
Insurance Commissioner