

December 3, 1976

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 23 (1976)

December 3, 1976

TO: ALL INSURERS, INCLUDING ARTICLE IX-C CORPORATIONS, LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE IN NEW YORK STATE

RE: MANDATORY MATERNITY COVERAGE

Chapter 843 of the Laws of 1976 requires that every health insurance policy or contract subject to the provisions of Section 162, 164 or 253 of the New York Insurance Law which provides hospital, surgical or medical coverage must provide coverage for maternity care to the same extent that coverage is provided for illness or disease under the policy, except that reimbursement of covered expenses for maternity care may be limited to a period of four days of hospital confinement. Maternity care coverage may be limited to persons covered under the policy for a period of ten months or a lesser period if the pregnancy commenced while the insured was covered under the policy.

This legislation takes effect on January 1, 1977 and applies to all policies and contracts written, altered, amended or renewed on or after such date, except contracts which have been or shall be issued to or sponsored by any government or public employer.

Questions by individuals, employers and insurers concerning Chapter 843 of the Laws of 1976 have been received by the Insurance Department. In order that all interested parties may be made aware of the Insurance Department's interpretation concerning this legislation, this Circular Letter will set forth specific questions and the Department's answers. Insurers submitting policies or riders to the Department for approval to comply with the requirements of Chapter 843, Laws of 1976, should consider the answers to the questions in this Circular Letter as guidelines in drafting the specific contractual provisions. The Department is also including guidelines for computing gross premiums to be charged for the mandated maternity benefits provided in policies subject to Section 164, New York Insurance Law.

1. Does Chapter 843, Laws of 1976, apply to statutory and other conversion policies?

YES. The bill provides that every policy subject to the provision of Section 162, 164 or 253 must include maternity care coverage. Conversion policies are subject to these sections of the Law. Notwithstanding the specific provisions of Sections 162 and 164 excluding maternity coverage from conversion policies, Chapter 843, Laws of 1976 was enacted subsequent to the conversion law and supersedes it.

2. Does Chapter 843, Laws of 1976, require maternity coverage in hospital indemnity policies?

NO. Chapter 843, Laws of 1976 requires coverage for maternity care and provides that such maternity care coverage may be limited to reimbursement of covered expenses for maternity care for a period of four days of hospital confinement. Hospital indemnity policies do not pay for reimbursement of covered expenses for any type of care and, thus, are exempt from the bill.

3. Does Chapter 843, Laws of 1976, apply to policies which provide disability income benefits pursuant to Article 9 of the Workmen's Compensation Law (DBL) or to any individual, franchise or group disability income policies?

NO. Policies providing only disability income benefits are not policies providing hospital, surgical or medical coverage.

4. Are group insurance policies delivered outside New York State covering New York residents required to include the mandatory maternity coverage?

NO. Section 162, New York Insurance Law, applies only to group policies delivered in New York State and, thus, such a policy would be exempt from compliance.

5. Must a major medical contract super-imposed over basic health insurance coverage provide maternity care coverage?

Answer: Both contracts are required to include the mandatory maternity benefits. Duplication of benefits is avoided in the major medical contract through its coordinated deductible provision.

6. Is Chapter 843, Laws of 1976 intended to apply to in-force guaranteed renewable policies renewed after January 1, 1977?

YES. The law specifically provides that "Every policy subject to the provisions of Section one hundred sixty-four" must provide maternity care coverage. In addition, Section 4 of the Law provides that it shall take effect on the first day of January 1977 and shall apply to all policies and contracts written, altered, amended or renewed on or after such date.

7. When contracts are amended to comply with Chapter 843, Laws of 1976, are existing pregnancies covered immediately?

YES. If the person claiming benefits was covered under the contract for a period of ten months or if the pregnancy commenced while the insured was covered by the contract, maternity benefits are payable after amendment of the contract.

8. Is the surgical and medical coverage limited to the four days of hospital confinement?

NO. The four day limit is not applicable to the surgical and medical coverage unless such coverage is limited for all illness or disease to expenses incurred on an in-hospital basis only. Coverage for maternity care is to be provided to the same extent as coverage for illness or disease under the contract except that hospital care coverage can be limited to four days of confinement.

9. If hospitalization for a normal pregnancy exceeds four days, which days are covered by insurance?

Answer: The first four consecutive days of hospitalization which includes the day of delivery, should be covered by insurance. The four day limitation is intended to require payment only for hospitalization generally considered medically necessary for a normal delivery. If hospitalization exceeds four days, it may be the result of a complication of pregnancy which would also be covered.

10. Does Chapter 843, Laws of 1976, require maternity coverage for every female covered under the contract?

YES. The law specifically requires maternity care coverage be provided in "Every policy. . ." without any restrictions based on age, sex or marital status.

11. Does maternity care coverage include coverage for elective abortions?

NO. Elective abortions are not included within the term "maternity care coverage" since an abortion is intended to terminate a pregnancy and avoid maternity.

12. Does Chapter 843, Laws of 1976, require child care coverage?

NO. The law requires hospital, surgical and medical care coverage for the mother only.

GUIDELINES FOR ARRIVING AT THE GROSS PREMIUMS TO BE CHARGED FOR THE
MATERNITY BENEFITS MANDATED BY CHAPTER 843 OF THE LAWS OF 1976 UNDER
POLICIES SUBJECT TO SECTION 164 OF THE NEW YORK INSURANCE LAW

1. To assist insurers in computing rates for mandatory maternity benefits differentiated by marital status, this Department computed the following frequency rates of live births in 1975 in New York State for married and single women from data published by the New York State Department of Health:

Age of Mother	Annual Frequency	
	Married	Single
	New York State	
20-24	.1316	.0314
25-29	.1195	.0367
30-34	.0604	.0275
35-39	.0234	.0133
40-44	.0051	.0033
	New York State Excluding New York City	
	Married Single	
20-24	.1355	.0180
25-29	.1345	.0190
30-34	.0656	.0132
35-39	.0211	.0054
40-44	.0045	.0016
	New York City	
	Married Single	
20-24	.1253	.0495
25-29	.1060	.0592
30-34	.0521	.0418
35-39	.0272	.0248
40-44	.0056	.0057

(These rates do not include any factor for anti-selection.)

2. If rates were originally computed on a level premium to age 65 basis, the additional premium for the maternity benefit should also be computed on the level premium to age 65 basis using as the issue age the age when the maternity benefit was added. Lapse assumptions should be the same as the assumptions used in developing the original rates. Where maternity benefits are added to a policy on renewal, renewal lapse rates should be used in computing the rate for maternity benefits.

3. If the original premiums were computed on a step rate basis, the extra premium for maternity may also be computed on a step rate basis.

4. Based on available information, an average hospital stay assumption of 3.6 days seems reasonable for the new statutory maternity benefits.

5. The expense loading for maternity benefits added to existing policies on renewal or amendment should be limited to no more than one third of the net premiums for such benefits unless the insurance company demonstrates to the satisfaction of the Superintendent that because of union agreements, vested commissions, or other reasons a higher loading is warranted.

A company may use any other basis for computing gross premiums for the statutory maternity benefit, if it demonstrates to the satisfaction of the Superintendent that the proposed rates submitted for approval are reasonable, equitable, not unfairly discriminatory and otherwise meet the requirements of the New York Insurance Law and Department Regulations.

Companies are requested to submit for approval proposed premium rates, including the required supporting data for such rates, as soon as possible to enable the Department to process the filings before the effective date of January 1, 1977.

[SIGNATURE]

THOMAS A. HARNETT

Superintendent of Insurance