

## Workers Compensation and Coverage of Owners in the Small Group Market

February 27, 2007

Dear BCBSNC Group Administrators,

This communication is meant to address questions raised regarding workers compensation coverage of owners and Blue Cross Blue Shield of North Carolina's ("BCBSNC") coverage of these employers.

Under the North Carolina Workers Compensation Act every employer of three or more employees is required to provide workers compensation coverage unless specifically exempted. An officer, sole proprietor or partner of a business or any member of a limited liability company may elect not to be included under the workers' compensation coverage of the business. State law indicates that we cannot refuse to pay benefits that might be work related unless and until the Industrial Commission makes a determination that the injury is determined to be a "compensable" injury.

With respect to insured business we cannot refuse to pay a claim in anticipation that the claim will be deemed a work-related injury and subject to workers compensation. We must pay the claim and rely on our recovery vendor, The Rawlings Company, to research the claim(s) and determine if a recovery can be made. BCBSNC has and will continue to pay these claims as provided for under NC law.

When filing member contract booklets, the Department of Insurance provides the following guidance to health plans pursuant to NCGS 58-50-57:

*An insurer that covers an employee under a health benefit plan as defined in G.S. 58-3-167, a disability income plan, or any other health insurance plan as defined in NCGS 58-3-167 and all other health plans, exclusions from coverage of claims that are subject to the Workers' Compensation Act (Chapter 97 of NCGS) are prohibited unless the exclusions extends only to specific medical charges for which the employee, employer, or carrier is liable or responsible for according to the a FINAL adjudication of the claim under that Article or an order of the North Carolina Industrial Commission approving a settlement agreement entered into under that Article. The use of the word "payable" may be used if in conjunction with the word paid.*

Accordingly, our member booklets for our fully-insured HMO, PPO (including HSA), and CMM products contain the following provision under the "What is Not Covered" section: "For any condition, disease, illness or injury that occurs in the course of employment, if the employee, employer or carrier is liable or responsible (1) according to a final adjudication of the claim under a state's workers' compensation laws, or (2) by and

order of a state’s Industrial Commission or other applicable regulatory agency approving a settlement agreement.”

Thank you.

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