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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON TEMPORARY¹ REGULATION
LCB File No. T005-23
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter(s) 687B of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: May 2, 2023
Time: 9:30 a.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=ma9d6c2ce20806e314f93b1595255e168>
Meeting Number: 2633 165 1721
Password: tJtXkK4ki32

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free
Access Code: 2633 165 1721

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Hearing Agenda.

* There is no physical location designated for this hearing. Accordingly, any person planning to participate must participate by using the Webex link, for video access, or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <https://doi.nv.gov/News-Notices/Regulations/>.

¹ NRS 233B.063(3) An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

The purpose of the hearing is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed temporary regulation; and to assist in determining whether the proposed temporary regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation, or expansion of a small business.

HEARING AGENDA

1. Open Hearing: T005-23.
2. Presentation of Proposed Temporary Regulation.

LCB FILE NO. T005-23P - NETWORK ADEQUACY STANDARDS PLAN YEAR 2024

A regulation relating to insurance; requiring that a network plan satisfy certain requirements before the Commissioner of Insurance (“Commissioner”) can determine that such network plan is adequate for sale in this State; and providing for other matters properly relating thereto. A copy of the proposed regulation prepared by the Division is available by clicking on the following link: <https://www.leg.state.nv.us/Register/2023TempRegister/T005-23P.pdf>

3. Public Comment.

The hearing officer will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Hearing: T005-23.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The hearing officer, within his/her discretion, may allow for public comment on individual agenda items.

A copy of all materials relating to the proposal may be obtained by visiting the Division’s internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division (regs@doi.nv.gov or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to regs@doi.nv.gov. Members of the public are encouraged to submit written comments for the record no later than **April 25, 2023**. Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex or telephone and/or may address their comments, data, views, or arguments in written form, by email to regs@doi.nv.gov or by mail to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing, no later than five (5) working days before the hearing via email to regs@doi.nv.gov.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

- (1) Why is the regulation necessary and what is its purpose?

The regulation is necessary to comply with the requirement that the Commissioner of Insurance (“Commissioner”) issue network adequacy standards required of all network plans. See Nevada Revised Statutes (“NRS”) 687B.490 and Nevada Administrative Code (“NAC”) 687B.750 to 687B.784. The purpose of the regulation is to establish adequacy standards for network plans for plan year 2024.

- (2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues, and problems involved.

The Adequacy of Network Plans section of NAC Chapter 687B includes provisions that give the Commissioner the authority to establish a Network Adequacy Advisory Council (“Council”) to provide annual recommendations regarding the standards used to measure network plan adequacy.

On March 8, 2022, the Council conducted its first meeting for plan year 2024. The nine-member Council held a total of four (4) public meetings during which they conducted discussions, reviewed data, and received public input related to network adequacy. Meeting recordings and supporting documents presented during the meetings are available on the Division of Insurance (“Division”) website at doi.nv.gov. On September 8, 2022, a report including the Council’s network adequacy recommendations was submitted to the Commissioner. Based on the Commissioner’s review of the report, the Commissioner seeks to promulgate this regulation to enact network adequacy standards.

The proposed regulation incorporates network adequacy guidance related to network adequacy standards for stand-alone dental plans or a health benefit plan offering oral pediatric services as part of the essential health benefits required under 42 U.S.C. § 18022 subsection (b)(1)(J), which has been in place since 2016. This regulation is intended to help individuals who purchase a stand-alone dental plan or a health benefit plan with oral pediatric service have access to providers when seeking care.

- (3) What is the anticipated impact of the regulation on the problem(s)?

Once these additional network adequacy standards are implemented, policyholders should be able to more reasonably access appropriate in-network care. By providing a broader base of “in network” healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.

- (4) Do other regulations address the same problem(s)?

The Adequacy of Networks section under NAC 687B.750 to 687B.784 includes provisions related to network adequacy standards required for health network plans in the individual and small

employer group market. The proposed regulation incorporates additional standards related to essential community providers and dental providers.

- (5) Are alternate forms of regulation sufficient to address the problem(s)?

As noted, the network adequacy standards under NAC 687B.768 do not currently address the standards proposed under this regulation.

- (6) What value does the regulation have to the public?

The regulation provides standards for measuring network plan adequacy to ensure health plan consumers can reasonably access certain providers, including providers offering services related to stand-alone dental plans and health benefit plans with oral pediatric offerings.

- (7) What is the anticipated economic benefit of the regulation? Provide a statement as to potential beneficial impact on the following:

- a. Public
 1. Immediate: Once these additional network adequacy standards are implemented, because of the revised standards, policyholders should be able to more reasonably access in-network versus out-of-network care. This should, in turn, help policyholders limit their accessing out-of-network providers, which can lead to higher costs.
 2. Long Term: A broader base of “in network” healthcare providers should help policyholders access in-network care, which reduces the policyholders’ out-of-pocket costs.
- b. Insurance Business
 1. Immediate: Carriers may be able to attract more consumers due to an expanded number of providers in their network.
 2. Long Term: Carriers will be able to better measure members’ needs and use of particular providers to better plan, which should, because of estimated efficiency, positively impact insurers’ financial outlook.
- c. Small Businesses
 1. Immediate: None
 2. Long Term: Some providers that qualify as small businesses may have more opportunities, options, and/or negotiating power due to revised standards that may require a carrier to expand their network. This expansion could result in carriers contracting with providers with whom they did not previously contract.
- d. Small Communities
 1. Immediate: If consumers are better able to access services through their insurance, they may rely less on other health care options that are more expensive or that tie up small community resources.
 2. Long Term: Immediate benefits should continue into the long term.
- e. Government Entities
 1. Immediate: None
 2. Long Term: None

- (8) What is the anticipated adverse impact, if any? Provide a statement as to any anticipated adverse impact, including adverse economic effects, on the following:
- a. Public
 - 1. Immediate: None.
 - 2. Long Term: None.
 - b. Insurance Business
 - 1. Immediate: Health insurance carriers will be required to demonstrate network plan adequacy based on network adequacy standards in the regulation. Carriers likely will have to adjust network plans to meet member needs. Carriers might have to add additional healthcare providers to their current network plan designs.
 - 2. Long Term: None.
 - c. Small Businesses
 - 1. Immediate: No adverse impact is anticipated by this regulation.
 - 2. Long Term: No adverse impact is anticipated by this regulation.
 - d. Small Communities
 - 1. Immediate: No adverse impact is anticipated by this regulation.
 - 2. Long Term: No adverse impact is anticipated by this regulation.
 - e. Government Entities
 - 1. Immediate: No adverse impact is anticipated by this regulation.
 - 2. Long Term: No adverse impact is anticipated by this regulation.
- (9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:
- a. Enactment: The Division does not anticipate a direct or indirect cost to promulgate the regulation.
 - b. Enforcement: The Division anticipates no additional direct or indirect costs as enforcement occurs as part of the compliance process. Carrier plans subject to network adequacy standards are not permitted to be marketed prior to being authorized by the Division as part of compliance.
 - c. Compliance: The Division anticipates no additional direct or indirect costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.
- (10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee.

The regulation does not establish a new fee or increase an existing fee.

- (11) Provide a statement identifying the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to NRS 233B.0608, subsection 3.

Based on past regulations related to network adequacy, public meetings, and discussions, Division personnel deemed subject matter experts considered whether the regulation will impact small businesses.

Since the implementation of the Affordable Care Act, the Division has issued guidance and promulgated regulations related to network adequacy. In doing so, to gather relevant information, the Division has held numerous public meetings. To date, the Division has received no comments suggesting that quantifying network adequacy standards in a regulation would negatively impact small businesses. Additionally, the Network Adequacy Advisory Council's meetings are public and include extensive discussion over network adequacy—at no time during the public meetings conducted for plan years 2018 through 2024 were any comments received that the proposed network adequacy standards would negatively impact small businesses. To determine the proposed regulation's reach, the Division has also extensively analyzed and conducted research on network adequacy standards.

- (12) Describe any other state or local governmental agency regulation that the proposed regulation overlaps or duplicates and, if there is overlap or duplication, provide a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

The Adequacy of Networks section under NAC 687B.750 to 687B.784 includes provisions related to network adequacy standards required for health network plans in the individual and small employer group market. The proposed regulation modifies NAC 687B.768 to expand the access to essential community providers and adds network adequacy standards for stand-alone dental plans or a health benefit plan offering oral pediatric services as part of the essential health benefits required under 42 U.S.C. § 18022, subsection (b)(1)(J). Regarding other state, local, or federal regulations, there is no overlap or duplication of existing regulations.

- (13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

The proposed regulation is not required pursuant to federal law.

- (14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

Not applicable because the proposed regulation is not required pursuant to federal law.

Notice of the hearing has been provided as follows:

By email to all persons on the Division's e-mail list for noticing of administrative regulations.
By email for posting by the Nevada State Library, Archives and Public Records Administrator.
By email for posting by the Nevada Legislature.
Published to the Nevada Legislature website: <https://leg.state.nv.us/>.
Published to the Division of Insurance website: <https://doi.nv.gov/>.
Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this _____ day of March 2023.

SCOTT J. KIPPER
Commissioner of Insurance