STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-5065
615-741-6007

BILL LEE
GOVERNOR

CARTER LAWRENCE
COMMISSIONER

BULLETIN 24-02

To: Tennessee-Licensed Health Carriers

From: Carter Lawrence, Commissioner Carter Lawrence (Aug 7, 2024 08:50 CDT)

Date: August 6, 2024

RE: Managed Health Insurance Issuers

The Tennessee Department of Commerce and Insurance (the "Department") issues this bulletin to provide guidance regarding the phrase "managed health insurance issuer" ("MHII"), which is defined in Tenn. Code Ann. § 56-32-128(a) and used throughout Title 56 of the Tennessee Code. Determined in consultation with the Tennessee Attorney General's Office, it is the Department's position that any entity that meets the criteria in Tenn. Code Ann. § 56-32-128(a) is subject to the requirements in Tennessee law applicable to MHIIs, regardless of (1) the name or title used to describe the health plans or network arrangements offered by the entity, (2) the types of other benefits (if any) that may be offered by the plans, or (3) whether the entity was previously required to comply with Tennessee laws applicable solely to MHIIs.

The Department recognizes that some Tennessee insurance companies have previously construed the definition of "managed health insurance issuer" to include only "health maintenance organizations" ("HMOs"). But as companies have updated the features of health plans and network arrangements over time, many companies besides HMOs now offer plans providing "health insurance coverage or benefits" that fall within the scope of the definition found at Tenn. Code Ann. § 56-32-128(a). While the definition of "managed health insurance issuer" contained in Tenn. Code Ann. § 56-32-128(a) specifically applies to Tenn. Code Ann. § 56-32-128, the same definition is utilized or adopted in other sections of Title 56 of the Tennessee Code (*see* Tenn. Code Ann. § 56-7-1004, 56-7-2357, 56-7-3102, and 56-7-3119). Based on the expansive use of the Tenn. Code Ann. § 56-32-128(a) definition of "managed health insurance issuer" in other sections of Title 56, the Department is obligated to follow that definition when interpreting and applying all provisions of Title 56 that use the term "managed health insurance issuers."[1] Thus,

[1] *See* Mills v. Fulmarque, Inc., 360 S.W.3d 362, 369 (Tenn. 2012) (stating that "[i]n the absence of statutory language indicating that the definition of [a] phrase differs from one sentence, or subsection, to the next, [courts will] decline to assign inconsistent definitions to the same phrase.").

for purposes of Title 56, MHIIs include not only HMOs but also any other type of entity that meets the definition found in Tenn. Code Ann. § 56-32-128(a) (i.e., an entity that offers a health plan that "restricts reimbursement for covered services to a defined network of providers"). Consequently, all companies falling within the definition of MHII set out in Tenn. Code Ann. § 56-32-128(a) must comply with all legal requirements applicable to MHIIs contained in Title 56.

The Department recognizes that not all health plans issued by MHIIs limit reimbursement to a defined network of providers. In this instance, the Department only considers an entity to be an MHII in regard to the entity's offer and administration of a particular health plan that restricts reimbursement for covered services to a defined network of providers as outlined in Tenn. Code Ann. § 56-32-128(a), and not to all health plans offered by the entity. For example, an MHII would not have to comply with requirements applicable to MHIIs under Tennessee law for the MHII's preferred-provider-organization health plan that offers both in-network and out-of-network benefits, even though the issuing MHII also offers a separate health plan that meets the criteria in Tenn. Code Ann. § 56-32-128(a) that must comply with those requirements regarding plans issued by an MHII.

The Department has identified at least twelve sections in Tenn. Code Ann. Title 56 that impose various requirements on MHIIs. A list of the relevant sections is attached as Attachment A. Some of these requirements also apply broadly to health insurance issuers (or another similar phrase that would include MHIIs).[2] In those instances, this bulletin will not impact the way MHIIs manage plans that meet the criteria in Tenn. Code Ann. § 56-32-128(a), since the plan was already required to comply with those sections. However, there are multiple sections in Tenn. Code Ann. Title 56 with which MHIIs are required to comply that only apply to health plans meeting that definition. In light of the plain language of the statute and the definition of "managed health insurance issuer," all health plans that meet the criteria in Tenn. Code Ann. § 56-32-128(a) – other than HMOs, which have been historically understood by both the Department and insurers to be included in the definition of an MHII – must begin complying with all sections of Tenn. Code Ann. Title 56 applicable to MHIIs (in addition to those applicable to health insurers generally, with which the insurer should currently be complying) for plans that are entered into or take effect on or after January 1, 2025. Filings submitted to the Department regarding policies that will be effective on or after January 1, 2025, must also comply.

For questions or concerns, please email Ins.Policy.Analysis@tn.gov.

[2] *See* Tenn. Code Ann. § 56-7-2357 for an example of one such section.

ATTACHMENT A

SECTIONS IN TENN. CODE ANN. TITLE 56 THAT IMPOSE REQUIREMENTS ON MANAGED HEALTH INSURANCE ISSUERS

T. C. A. § 56-7-1004. Physician referrals for health care services; contact by insurer or insurer's agent; penalty
T. C. A. § 56-7-2356. Network adequacy
T. C. A. § 56-7-2357. Medical laboratory participation
T. C. A. § 56-7-2358. Continuity of care
T. C. A. § 56-7-2359. Pharmacy and pharmacy access
T. C. A. § 56-7-2508. Hearing screening
T. C. A. § 56-7-3102. Definitions
T. C. A. § 56-7-3119. Certain discriminatory actions related to 340B entities prohibited
T. C. A. § 56-32-128. Managed health insurance issuer; point of service
T. C. A. § 56-32-129. Scope of services
T. C. A. § 56-32-130. Notice for providers
T. C. A. § 56-32-137. Managed health insurance; discrimination prohibited; class of providers