



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

August 23, 2010

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## INDIANA DEPARTMENT OF INSURANCE

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CAROL CUTTER, Commissioner

Senator Becker  
Representative Welch  
State of Indiana  
Indiana General Assembly  
Third Floor State House  
Indianapolis, IN 46204

Dear Senator Becker and Representative Welch,

Thank you for your inquiry regarding oral chemotherapy parity. The Department has reviewed your specific questions and has provided the following response:

**1. Has the Department found any evidence of health plans not complying with the oral chemotherapy parity law?**

There have been no instances of non-compliance with respect to the oral chemotherapy parity law, however there were many initial questions. After clarification, filings were deemed to be compliant.

**2. Is the Department aware of any health plans that have increased patient cost-sharing for intravenous/infused therapies in an attempt to comply with the law, as opposed to reduced patient cost-sharing burdens for oral chemotherapy to a comparable level as IV/infused therapies?**

There have been some instances of carriers changing benefits to be compliant with the new mandate that resulted in an increase in cost to consumers. For example, inpatient chemotherapy drugs previously covered at 100% were in violation of the new law. As such, carriers were required to change this coverage to match oral prescriptions with co-pays, co-insurance and/or deductibles. There was no allowance in the parity law for the richer benefits to remain.

**If evidence of this exists, is legislative action necessary to prohibit this type of cost-shifting?**

There is no evidence of "cost-shifting", only the unintended consequence of compliance with the new legislation.

**3. Has the Department received any consumer complaints against health plans for alleged non-compliance?**

The Chief Deputy of Consumer Services confirmed there have been no consumer complaints against health plans for non-compliance or changes to an existing benefit plan due to the parity law.

**If so, what action, if any, has been taken to enforce the law in those instances?**

As stated above, there have been no complaints on this issue to date.

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

**4. Through what process do health plans certify to the State that they are in compliance with the law?**

All carriers must file each benefit plan with the Department of Insurance for approval before implementation. Each benefit plan is carefully reviewed by policy analysts for compliance with all Indiana mandated laws. Certification is not separate by mandate. Approval is provided for the entire filing, or rejected in it's entirety.

**Does the Department complete an annual review of benefits to review? compliance with the oral chemotherapy parity requirement, and is the review performed in a consumer-friendly manner?**

The Department does not provide annual reviews. All filings are reviewed in the manner stated above. Any non-compliance with state mandated benefits, oral chemotherapy parity or any other mandated law, would not be approved at the time of initial review. Additionally, a carrier cannot modify a plan once it has been reviewed without re-filing. Administering a benefit plan that is not in compliance with the benefit plan reviewed and approved by the Department of Insurance would result in penalties against that carrier that may include fines, market conduct reports, and could ultimately result in the revocation of a carrier's Certificate of Authority to sell insurance products in the state of Indiana.

**5. Has the Department engaged in any patient, family, caregiver, and/or provider education about the new law to raise awareness of this requirement?**

The Department posted a bulletin (#172) on our website to alert and educate Indiana consumers of the impact of the new statute.

**6. Have any health plans operating in Indiana raised specific concerns about the oral chemotherapy parity requirement and/or claimed that the new requirement has resulted in an increase in health insurance premiums?**

There were initial concerns raised by some carriers regarding a potential increase to accommodate the new mandate, however no increase has materialized at this time.

I hope this fully answers your questions and concerns regarding the important new benefit of oral chemotherapy parity. If there are questions remaining, please contact me and I will be happy to provide further information.

Sincerely,

A handwritten signature in black ink that reads "Stephen W. Robertson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen W. Robertson  
Acting Commissioner  
Indiana Department of Insurance