Subject: ICBC Legislative Changes – What they mean for Pacific Blue Cross Members
Date: Friday, January 25, 2019 at 11:28:07 AM Pacific Standard Time
From: Pacific Blue Cross
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PACIFIC BLUE CROSS

Information

Summary

New legislation has changed the way ICBC participates in the payment of claims with healthcare benefit and insurance companies. As of November 9th, 2018, ICBC will not pay for similar benefits if a person also has access to benefits (including the advancement of funds) through another source. The same legislation also makes ***ICBC first payor*** *for eligible accident benefits (except wage loss) as of* ***April 1, 2019****. For our Extended Health and dental plans only, Pacific Blue Cross is eliminating the advancement of funds as it would impede our Members' ability to collect on future claims from ICBC. We will continue the practice of advancing funds for wage loss claims to assist Members during delays in ICBC's adjudication process. This shift to first payor is a welcome and exciting change that means ICBC premiums will directly pay for recovery expenses related to auto injuries.* ***We have taken steps to collaborate with ICBC and leverage these changes to create an immediate, improved Member experience – a move made possible because of our position as BC's #1 Health Benefits Provider.***

Background

On May 17, 2018 the Government of British Columbia enacted changes to ICBC under the Insurance (Vehicle) Act, through the passing of Bill 20. These well-publicized changes included an increase in no-fault limits for recovery and wage loss benefits, but also **removed the right of any insurance company to subrogate against ICBC** with respect to these expenses.

Subrogation occurs when an insurer pays automobile injury-related claims to their Member, and then recovers costs from ICBC when the Member's claim is settled. It is a way for healthcare benefit insurance companies to

ensure that their Members are not out of pocket, and at the same time ensure ICBC pays the claim for which they collect premiums and have the obligation to pay.

This legislation means that if a person has access to benefits through a source other than ICBC, typically an employer health care plan, then ICBC **will no longer pay** for similar benefits, and any future costs for these types of benefits will not be considered in a tort claim. A tort is a claim brought in a court of law that seeks, on behalf of the injured party, to recover damages for out-of-pocket expenses, pain and suffering, and potential losses of income in the past or future due to injuries when another driver is found to have been negligent (at fault) causing the accident.

The legislative change on May 17, 2018, did not affect Pacific Blue Cross (PBC). **Our plans have always excluded these types of injuries**, and we do not collect premiums to cover these types of claims.

Our practice has been to advance payment for eligible amounts with the understanding that our Member will pay us back, as outlined in our Third-Party clause. Members sign a Reimbursement Agreement that gives us the permission to advance and then recover these funds directly from them – and not from directly from ICBC as other insurers do.

On November 9, 2018, an Order in Council (OIC) was passed through the Legislature that more broadly defined a “benefit payment” to include both actual claims paid, and *“any prescribed circumstance whereby a person receives a loan or advance payment in relation to the loss or expense”*. This change put PBC directly under the impact of Bill 20, and all conditions laid out on May 17, 2018 now apply to us.

While this OIC brought PBC under the impact of Bill 20, it also changed the language to make ICBC first payor for Extended Health Care related accident benefits.

To understand how this would impact our Members, we did what only BC’s #1 Health Benefits provider could do – leveraged our relationship with ICBC to build a collaborative process that will improve our Member’s experience with their auto related injuries.

Working Together with ICBC

Effective immediately, Pacific Blue Cross will no longer maintain the practice of advancing funds for **Extended Health and dental expenses** for ICBC related injuries.

We have shared our contract language with ICBC, and they understand our exclusion. With this new understanding, ICBC now ***encourages*** our Members to take their claims directly to ICBC for payment.

ICBC does not become first payor until April 1, 2019. As a temporary measure to avoid delay of payment, Members should claim first to PBC to receive an Explanation of Benefits (EOB) letter declining the claim. Members will then take this EOB along with their receipts to ICBC for payment. After April 1, 2019, this EOB will not be required.

After April 1, 2019, ICBC will be utilizing their sizable network of providers to facilitate **direct payment** for many services – Members with auto related injuries may never have to be out of pocket for their provider visits.

Our previous process of advancing funds meant that there was a delay in receiving reimbursement for eligible expenses as we worked through the Reimbursement Agreement process. This exciting new change will significantly reduce the time and effort it takes our Members to be repaid, allowing them to use that valuable time to heal.

What about Wage Loss Claims?

ICBC is not becoming first payor for wage loss related claims. They have been forthright in advising us that our Members who claim to ICBC for wage loss will still experience delays in the adjudication of these claims, and will remain out of pocket until their claim is settled. This can cause hardship for our Members.

As our Third-Party Clause still applies, these claims remain excluded from your disability plans, but we will continue our current practice of advancing funds for these Members.

It is very important to note that Members who choose to accept this

advancement of funds **will not** be able to seek reimbursement from ICBC wage loss or tort claims against an at-fault driver. Members will be asked to sign a waiver and release of liability stating that they understand their rights. ***We very strongly encourage Members to seek legal advice prior to filing wage loss claims under Work and Wellness.***

Please see the attached FAQ for more information. For any questions, please contact your PBC representative.

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