

**Comments on Required Benefits in New York State**

New York appreciates the opportunity to comment on CCIIO’s list of Required Benefits in New York State. New York has carefully reviewed the list of state-required benefits that CCIIO has compiled and published on its website (<http://cciio.cms.gov/resources/EHBBenchmark/ny-state-mandate-template.pdf>) and requests consideration of the following:

**“Required Benefits” versus “Make Available Benefits”**

New York distinguishes between “Required Benefits” and “Make Available” benefits. “Required Benefits” are mandated by state statute and must be covered by carriers in the appropriate insurance market. “Make Available” benefits in New York are those that carriers are required to offer in the appropriate insurance market, but such benefits need not be purchased by individuals or groups. New York does not consider “Make Available” benefits to be “Required Benefits” and requests that the following “Make Available” benefits be removed from CCIIO’s list of “New York – State Required Benefits.”

**Make Available Benefits**

<b>Benefit</b>	<b>Group Commercial</b>	<b>Blanket Commercial</b>	<b>Individual Commercial</b>	<b>Group HMO</b>	<b>Article 43</b>
Nursing home care	§3221(l)(2)	N/A	§3216(j)(1)(A)	§4303(d)	§4303(d) and (r)
Ambulatory care	§3221(l)(3)	N/A	§3216(j)(1)(B)	§4303(e) and (f)	§4303(e) and (f)
Social worker	§3221(l)(4)	N/A	N/A	§4303(i)	§4303(i)
Biologically based mental illness and serious emotional disturbances (small groups)	§3221(l)(5)	§3221(l)(5) (school blanket only)	N/A	§4303(g) and (h)	§4303(g) and (h)
Inpatient treatment of alcoholism and substance abuse	§3221(l)(6)	§3221(l)(6)	N/A	§4303(k)	§4303(k)
Registered nurse	§3221(l)(9)	N/A	N/A	§4303(m)	§4303(m)
Hospice care	§3221(l)(10)	N/A	N/A	§4303(o)	§4303(o)
Supplemental home care	§3221(l)(1)	N/A	§3216(j)(2)	N/A	§4303(a)(3)(D)

## Required Benefits

New York has reviewed the remaining list of Required Benefits that CCIIO has compiled and published on its website (<http://cciio.cms.gov/resources/EHBBenchmark/ny-state-mandate-template.pdf>). New York agrees with the assessment and categorization of most of the benefits, but requests consideration of these suggestions:

- Emergency Medical Services  
Emergency medical services is a required benefit in the following five markets. We request the inclusion of this Required Benefit in CCIIO's list of "New York – State Required Benefits."
  - Group Commercial §3221(k)(4), See also: Circular letter No.1 (2002)
  - Individual Commercial §3216(i)(9), See also: Circular letter No.1 (2002)
  - Group HMO §4303(a)(2), See also: Circular letter No.1 (2002)
  - Article 43 §4303(a)(2), See also: Circular letter No.1 (2002)
  - Individual Direct Pay HMO §4322(b)
  
- Experimental or investigational services recommended by an external appeal agent  
Experimental or investigational services recommended by an external appeal agent is a required benefit in the following six markets. We request the inclusion of this Required Benefit in CCIIO's list of "New York – State Required Benefits."
  - Group Commercial §3221(k)(12)
  - Blanket Commercial §3221(k)(12)
  - Individual Commercial §3216(i)(22)
  - Group HMO §4303(z)
  - Article 43 §4303(z)
  - Individual Direct Pay HMO §4321(f)
  
- Mammography Benefit  
The market applicability of New York State's required mammography benefit is correct. New York requests a correction to the citation for the benefit in the Individual Commercial Market from §3216(l)(11) to §3216(i)(11). The citations for the other markets are correct.
  
- Autism Spectrum Disorders  
The market applicability of New York State's required autism spectrum disorders benefit is correct. New York requests a correction to the citation for the benefit in the Individual Commercial Market from 216(1)(25) to §3216(i)(25). The citations for the other markets are correct.
  
- Inpatient mental health care  
Inpatient mental health care is a required benefit in the Individual Direct Pay HMO market, §4322(b). We request the inclusion of this Required Benefit in CCIIO's list of "New York – State Required Benefits."
  
- Prescription Drugs  
The market applicability of the prescription drug benefit in the Individual Direct Pay HMO market is correct; however CCIIO has labeled this benefit as "Generic Drugs." New York would like to clarify that the prescription drug benefit in this market is not limited to generic drugs.

- Citation for Required Benefits in the Individual Direct Pay HMO Market

With the exception of the citations provided for the benefits listed above and of the citation for end of life care benefit in the Individual Direct Pay HMO market (which is correctly cited as Public Health Law §4406-e), New York requests a change in the citation for Required Benefits in the Individual Direct Pay HMO market from §4322(b) to §4321, §4322(b), and §4303.

New York appreciates your consideration of these comments and looks forward to continuing to work with our federal partners to refine the proposed regulations.