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ADVISORY OPINION

2020-005

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL HEALTH INSURANCE COMPANIES AUTHORIZED TO TRANSACT
BUSINESS IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: NEWBORN COVERAGE

DATE: June 17, 2020

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The Kentucky Department of Insurance (“Department”) issues this advisory opinion on the coordination of benefits within the first thirty-one (31) days of birth of a newborn for health insurance policies and health benefit plans subject to KRS 304.17-042, 304.17A-139, 304.18-032, 304.32-153, and 304.38-199.

The above referenced statutes require coverage for the first thirty-one (31) days for a newly-born child from the moment of birth regardless of whether the contracts are for nonfamily or family coverage. It is the Department’s understanding that, in situations where both parents are covered under separate plans, insurers are coordinating coverage for the newborn based upon the provisions of 806 KAR 18:030. This coordination of benefits is occurring even if the parents have elected to add the newborn as a dependent to a specific parent’s plan within the first thirty-one (31) days.

It is the Department’s position that if a parent has made an election within the first thirty-one (31) days of birth to add a newborn as a dependent only to one parents’ plan, the newborn is not covered by two (2) or more plans and 806 KAR 18:030 Section 2(2)(b) is not applicable. In situations where an election to add a newborn as a dependent to a specific parents’ plan has not been made within the first thirty-one (31) days of birth or where an election has been made within the first thirty-one (31) days of birth to add the newborn as a dependent to both parents’ plans, the

Advisory Opinion 2020-005
June 17, 2020
Page 2

provisions of 806 KAR 18:030 Section 2(2)(b) apply in determining the primary and secondary plans. Notwithstanding 806 KAR 18:030, if one of the parents is covered under a high-deductible plan with an HSA, the non-HDHP plan would be the primary plan.

/s/Sharon P. Clark
Sharon P. Clark, Commissioner
Kentucky Department of Insurance