

**FIFTH AMENDMENT
To
AMENDED AND RESTATED PLAN OF OPERATION AND TERMINATION
Of
NEW HAMPSHIRE HEALTH PLAN**

This FIFTH AMENDMENT TO AMENDED AND RESTATED PLAN OF OPERATION AND TERMINATION (the "*Fifth Amendment*") is adopted by the Board of Directors (the "*Board*") of the **New Hampshire Individual Health Plan Benefit Association, doing business as "New Hampshire Health Plan" ("NHHP")**, and is being submitted to the New Hampshire Insurance Commissioner (the "*Insurance Commissioner*") for approval.

Factual Background:

A. Pursuant to New Hampshire RSA 404-G (the "*Act*") and various Orders of the Insurance Commissioner, the NHHP Board adopted its Amended and Restated Plan of Operation and Termination as subsequently amended by (i) a First Amendment to Amended and Restated Plan of Operation and Termination effective December 31, 2018; (ii) a Second Amendment to Amended and Restated Plan of Operation and Termination adopted by the Board on March 11, 2020; (iii) a Third Amendment to Amended and Restated Plan of Operation and Termination effective October 20, 2020; and (iv) a Fourth Amendment to Amended and Restated Plan of Operation and Termination effective March 27, 2023 (as amended, the "*Current Restated Plan*").

B. During the most recent legislative session ending June, 2023, the New Hampshire General Court adopted various technical amendments to the Act proposed by the New Hampshire Insurance Department and to become effective January 1, 2024 (as amended, the "*Amended Act*").

C. The NHHP Board is adopting this Fifth Amendment to the Current Restated Plan to incorporate into its Current Restated Plan the technical amendments to the Act.

Terms of Fifth Amendment:

NHHP adopts the following Fifth Amendment to its Current Restated Plan:

1. Defined Terms. Any capitalized terms used but not defined in this Fifth Amendment will have the meaning ascribed to them by the Current Restated Plan. From and after the effective date of this Fifth Amendment, the term "Restated Plan" will mean the Current Restated Plan as amended by this Fifth Amendment.

2. Amendments to Current Restated Plan. The Current Restated Plan is amended as follows:

a. *Preamble.* The Preamble is deleted in its entirety and replaced with the purposes set forth in Section 1 of the Amended Act.

b. *Assessable Entity.* The term "Member" is deleted wherever it appears in the Current Restated Plan and replaced with "Assessable Entity," defined by Section 2(I) of the Amended Act:

- i. Health maintenance organization, as defined by RSA 420-B:1(VI);
- ii. Third party administrator (TPA), as defined by RSA 402-H:1(I);
- iii. Entity providing administrator services and required to register with the Commissioner under RSA 402-H:11-a or 402:11-b;
- iv. Insurance company licensed pursuant to RSA 401:1(IV);
- v. Health service corporation, as defined by RSA 420-A:1(III); and
- vi. Any entity providing group excess loss insurance to an employer with a principal place of business in New Hampshire or to an employer that covers lives in New Hampshire.

c. *Assessments.* The term "Assessment" wherever it appears in the Current Restated Plan is hereby redefined to mean the liability of each Assessable Entity to NHHP under Section 5-a of the Amended Act.

d. *Covered Lives.* The term "Covered Lives" wherever it appears in the Current Restated Plan is hereby amended to add all persons who are protected by health insurance as defined in Section 2(VII) of the Amended Act where the person is a New Hampshire resident.

e. *Program.* The term "Program" as used in the Current Restated Plan without an additional adjective is hereby redefined to mean "any initiative undertaken by NHHP with the approval of the Commissioner to fulfill any stated purpose of the Amended Act or any other statutory requirement, including but not limited to the Reinsurance Program authorized under RSA 420-N:6-a and supporting the New Hampshire Granite Advantage Health Care Program under RSA 126-AA."

f. *Reserve Funds.* The Current Restated Plan is amended to authorize NHHP to establish reserve funds necessary to carry out the Current Restated Plan "and to protect against unexpected and unforeseeable expenses and losses."

g. *Granite Advantage Health Care Program.* Any references in the Current Restated Plan to RSA 126-AA shall mean RSA 126-AA "as it may be amended from time to time." The date "June, 2025" in the penultimate sentence of Section (IV)(C)(1) of the Current Restated Plan is hereby amended by deleting it and replacing it with "June, 2030."

h. *Annual Reports.* Any provisions of the Current Restated Plan to the annual report to be filed with the Commissioner are amended to reflect that the deadline will be 180 days, not 120 days, from the end of each NHHP fiscal year.

i. *Termination and Dissolution Provisions.* All provisions of the Current Restated Plan relating to previous Programs which have been terminated and all funds disbursed are hereby deleted, and Section III, Winding Down of NHHP Affairs, is amended to be applied on a Program-specific basis and otherwise consistent with Section 11 of the Amended Act. The phrase "AND TERMINATION" is hereby deleted from the title of the Current Restated Plan.

3. Reaffirmation of Remaining Terms of Restated Plan; Authorization to Further Restate. The remaining terms of the Restated Plan which are not affected by this Fifth Amendment remain in full force and effect. The Board authorizes and directs its Executive Director, with the assistance of legal counsel, to incorporate all of the amendments to the Restated Plan (including this Fifth Amendment) into a comprehensive and up-to-date Second Restated Plan of Operation, and authorizes the Executive Director, with the assistance of legal counsel, to make any other revisions as are necessary to conform the Restated Plan with the Amended Act. The Second Restated Plan of Operation will be submitted to the Commissioner for approval without further approval of the Board, which has delegated such authority to the Executive Director.

4. Effective Date. This Fifth Amendment will become effective on January 1, 2024 provided that it first is approved by the New Hampshire Insurance Commissioner (the "Effective Date").

APPROVAL OF NEW HAMPSHIRE INSURANCE COMMISSIONER

The foregoing Fifth Amendment to the Amended and Restated Plan of Operation and Termination adopted by the Board of Directors of the New Hampshire Individual Health Plan Benefit Association, d/b/a New Hampshire Health Plan, is hereby approved.

DATE: October 13, 2023



D.J. Bettencourt, Commissioner