Illinois Department of Insurance

PAT QUINN
Governor

JACK MESSMORE
Acting Director

TO: ALL HEALTH PLANS AND EXTERNAL REVIEW ORGANIZATIONS

FROM: JACK MESSMORE, ACTING DIRECTOR

DATE: AUGUST 26, 2011

RE: COMPANY BULLETIN 2011-10

HEALTH CARRIER EXTERNAL REVIEW ACT – AS AMENDED BY HOUSE BILL O224

Effective August 26, 2011, numerous changes have been made to Illinois' Health Carrier External Review Act (the "Act"). These changes are a result of House Bill 0224, which apply to "adverse determinations" or "final adverse determinations" that were made within the four months prior to the Act's effective date.

Important revisions to the Act include:

- An expanded definition of "adverse determination." In addition to denials due to medical necessity, appropriateness, health care setting, level of care or effectiveness, a denial is now reviewable under the Act if it is based on a pre-existing condition determination or a rescission of health coverage (not including cancellation or discontinuance of coverage due to failure to timely pay required premiums or contributions).
- Now a request for External Review must be sent to the Department of Insurance rather than to the health carrier.
- A mandate that the Department of Insurance randomly assign Independent Review Organizations ("IROs") for Standard and Expedited External Reviews of all adverse determinations, including those that relate to experimental or investigational treatments or services. IRO assignments are currently made by health carriers.
- Updated external review notice requirements. The Act modifies several of the notices a health carrier must utilize and also requires the Department of Insurance to be notified of External Review decisions.
- The ability for covered persons to elect an "authorized representative" to advocate on their behalf.
- Revised timelines within which to timely appeal adverse determinations.
- Enhanced record retention requirements for IROs.

The Act also provides for strict conflict of interest standards. Neither the IRO nor the clinical reviewer selected by the IRO can have a conflict of interest with the health carrier, the covered person, the health care provider, the facility recommending the treatment of service or the developer or manufacturer of the drug, device, procedure or therapy that is the subject of the external review.

Covered persons or their authorized representative may appeal an IRO's adverse decision through the Department. If the Department, in consultation with a licensed medical professional, finds that the IRO's decision was "arbitrary and capricious", the Department can overturn the IRO's decision and require the health carrier to pay for the treatment in question.

The Act applies to all health carriers subject to the jurisdiction of the Director including, health insurers, HMOs, Voluntary Health Services Plans, and Limited Health Service Organizations. Excluded from the Act are:

- Health insurance policies that provide coverage *only for* a specified disease (for example, a cancer-only policy); specified accident or accident-only coverage; credit; dental; disability income; hospital indemnity; long-term care insurance; vision; or other limited supplemental benefits;
- Coverage through Medicare, Medicaid, or the Federal Employees Health Benefits Program;
- Self-insured employer plans;
- Self-insured health and welfare plans, such as union plans;
- Insurance policies or trusts issued in other states.

For HMOs, the Act does apply to contracts written outside of Illinois, if the HMO member is an Illinois resident and the HMO has established a provider network in Illinois.

Attached to this bulletin are copies of forms ***Request for External Review***, ***Physician Certification*** and ***Appointment of Authorized Representative.*** These forms are to be used when requesting an external review. For more detailed information concerning the requirements for conducting external review, including copies of these forms, please visit the Department's website on External Review, http://insurance.illinois.gov/externalreview.

Questions regarding this bulletin should be directed to Ms. Mary Petersen, Supervisor of the Department's Life, Accident and Health Complaint Unit and Office of Consumer Health Information at: mary.petersen@illinois.gov.