

1 **HEALTH CARE BENEFITS - GRIEVANCE**

2 **REVIEW PROCESS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Peter C. Knudson**

6 AN ACT RELATING TO INSURANCE; DEFINING TERMS; PERMITTING AN INSURED
7 TO CHALLENGE AN ADVERSE HEALTH INSURANCE DECISION THROUGH AN
8 INTERNAL REVIEW PROCESS AND BY AN INDEPENDENT REVIEW PROCESS;
9 REQUIRING THE INSURANCE COMMISSIONER TO ADOPT RULES; AND MAKING
10 CONFORMING AMENDMENTS.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **31A-4-116**, as enacted by Chapter 143, Laws of Utah 1999

14 ENACTS:

15 **31A-22-625**, Utah Code Annotated 1953

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **31A-4-116** is amended to read:

18 **31A-4-116. Grievance procedures.**

19 (1) If an insurer has established a complaint resolution body or grievance appeal board,
20 the body or board shall include at least one consumer representative.

21 (2) Grievance procedures for health insurance policies and health maintenance
22 organization contracts shall be established in accordance Section 31A-22-625.

23 Section 2. Section **31A-22-625** is enacted to read:

24 **31A-22-625. Grievance review process.**

25 (1) As used in this section:

26 (a) "Grievance" means a written or, if accepted by the insurer, oral statement that indicates
27 an insured's disagreement with an insurance-related decision of the insurer.

- 28 (b) "Independent review" means a process that:
29 (i) may be created and operated internally by an insurer or externally by a third party;
30 (ii) satisfies the requirements of Subsection (4)(b)(ii);
31 (iii) is designated by the insurer; and
32 (iv) renders an independent and impartial decision on a grievance submitted by an insured.
33 (c) "Insured" is as defined in Section 31A-1-301 and includes a person who is authorized
34 to act on the insured's behalf.
35 (d) "Insurer" is as defined in Section 31A-1-301 and includes:
36 (i) a health maintenance organization; and
37 (ii) a third-party administrator that offers, sells, manages, or administers a health insurance
38 policy or health maintenance organization contract that is subject to this title.
39 (e) "Internal review" means the process an insurer uses to review an insured's grievance
40 before the grievance is submitted for independent review.
41 (2) This section applies generally to health insurance policies and health maintenance
42 organization contracts in effect on or after January 1, 2001.
43 (3) (a) An insured may submit a grievance to the insurer.
44 (b) The insurer shall conduct an internal review of the insured's grievance.
45 (c) Consistent with rules adopted pursuant to Subsection (4), an insured who disagrees
46 with the results of an internal review may submit the grievance for an independent review if the
47 grievance involves the payment of a claim or the denial of coverage.
48 (4) Before October 1, 2000, the commissioner shall adopt rules that:
49 (a) establish a maximum flat fee that may be charged to an insured for requesting a
50 decision from an independent review board and the circumstances under which the fee shall be
51 waived on the basis of financial hardship; and
52 (b) establish minimum standards for:
53 (i) internal reviews;
54 (ii) internal and external independent reviews to ensure independence and impartiality;
55 (iii) the types of grievances that may be submitted to an independent review; and
56 (iv) the timing of the review process, including an expedited review when medically
57 necessary.
58 (5) Nothing in this section may be construed as:

- 59 (a) expanding, extending, or modifying the terms of a policy or contract with respect to
- 60 benefits or coverage;
- 61 (b) permitting an insurer to charge an insured for the internal review of a grievance;
- 62 (c) restricting the use of arbitration ~~in connection with~~ **SUBSEQUENT TO** ~~an~~
- 62a independent review; or
- 63 (d) altering the legal rights of any party to seek court or other redress in connection with:
- 64 (i) an adverse decision resulting from an independent review, except that if the insurer is
- 65 the party seeking legal redress, the insurer shall pay for the reasonable attorneys fees of the insured
- 66 related to the action and court costs; or
- 67 (ii) a grievance or other claim that is not eligible for submission to independent review.

Legislative Review Note
as of 1-26-00 7:18 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel