

HEALTH CARE BENEFITS - GRIEVANCE REVIEW PROCESS

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Peter C. Knudson

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

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

AMENDS:

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

ENACTS:

31A-22-625, Utah Code Annotated 1953

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

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

31A-4-116. Grievance procedures.

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

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

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

31A-22-625. Grievance review process.

(1) As used in this section:

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

(b) "Independent review" means a process that:

(i) may be created and operated internally by an insurer or externally by a third party;

(ii) satisfies the requirements of Subsection (4)(b)(ii);

(iii) is designated by the insurer; and

(iv) renders an independent and impartial decision on a grievance submitted by an insured.

(c) "Insured" is as defined in Section 31A-1-301 and includes a person who is authorized to act on the insured's behalf.

(d) "Insurer" is as defined in Section 31A-1-301 and includes:

(i) a health maintenance organization; and

(ii) a third-party administrator that offers, sells, manages, or administers a health insurance policy or health maintenance organization contract that is subject to this title.

(e) "Internal review" means the process an insurer uses to review an insured's grievance before the grievance is submitted for independent review.

(2) This section applies generally to health insurance policies and health maintenance organization contracts in effect on or after January 1, 2001.

(3) (a) An insured may submit a grievance to the insurer.

(b) The insurer shall conduct an internal review of the insured's grievance.

(c) Consistent with rules adopted pursuant to Subsection (4), an insured who disagrees with the results of an internal review may submit the grievance for an independent review if the grievance involves the payment of a claim or the denial of coverage.

(4) Before October 1, 2000, the commissioner shall adopt rules that:

(a) establish a maximum flat fee that may be charged to an insured for requesting a decision from an independent review board and the circumstances under which the fee shall be waived on the basis of financial hardship; and

(b) establish minimum standards for:

(i) internal reviews;

(ii) internal and external independent reviews to ensure independence and impartiality;

(iii) the types of grievances that may be submitted to an independent review; and

(iv) the timing of the review process, including an expedited review when medically necessary.

(5) Nothing in this section may be construed as:

(a) expanding, extending, or modifying the terms of a policy or contract with respect to benefits or coverage;

(b) permitting an insurer to charge an insured for the internal review of a grievance;

(c) restricting the use of arbitration in connection with or subsequent to an independent review; or

(d) altering the legal rights of any party to seek court or other redress in connection with:

(i) an adverse decision resulting from an independent review, except that if the insurer is the party seeking legal redress, the insurer shall pay for the reasonable attorneys fees of the insured related to the action and court costs; or

(ii) a grievance or other claim that is not eligible for submission to independent review.