

**ADVERSE BENEFIT DETERMINATION**

**AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Peter C. Knudson**

**This act amends the Insurance Code. The act amends the adverse benefit determination review process for group health plans to include individual or group health plans and income replacement or disability income policies.**

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

AMENDS:

**31A-22-629**, as last amended by Chapter 308, Laws of Utah 2002

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

Section 1. Section **31A-22-629** is amended to read:

**31A-22-629. Adverse benefit determination review process.**

(1) As used in this section:

(a) (i) "Adverse benefit determination" means the:

(A) denial of a benefit;

(B) reduction of a benefit;

(C) termination of a benefit; or

(D) failure to provide or make payment, in whole or in part, for a benefit.

(ii) "Adverse benefit determination" includes:

(A) denial, reduction, termination, or failure to provide or make payment that is based on a determination of an insured's or a beneficiary's eligibility to participate in a plan;

(B) with respect to individual or group health plans, and income replacement or disability income policies, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for, a benefit resulting from the application of a utilization review; and

(C) failure to cover an item or service for which benefits are otherwise provided because it is determined to be:

- (I) experimental;
- (II) investigational; or
- (III) not medically necessary or appropriate.
- (b) "Independent review" means a process that:
  - (i) is a voluntary option for the resolution of an adverse benefit determination;
  - (ii) is conducted at the discretion of the claimant;
  - (iii) is conducted by an independent review organization designated by the insurer;
  - (iv) renders an independent and impartial decision on an adverse benefit determination submitted by an insured; and
  - (v) may not require the insured to pay a fee for requesting the independent review.

(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 adverse benefit determination before the adverse benefit determination 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~~], and income replacement or disability income policies.

(3) (a) An insured may submit an adverse benefit determination to the insurer.

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

(4) Before October 1, 2000, the commissioner shall adopt rules that establish minimum standards for:

- (a) internal reviews;

- (b) independent reviews to ensure independence and impartiality;
  - (c) the types of adverse benefit determinations that may be submitted to an independent review; and
  - (d) 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 an adverse benefit determination;
  - (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) an adverse benefit determination or other claim that is not eligible for submission to independent review.