



- 28 (C) failure to cover an item or service for which benefits are otherwise provided  
29 because it is determined to be:
- 30 (I) experimental;
  - 31 (II) investigational; or
  - 32 (III) not medically necessary or appropriate.
- 33 (b) "Independent review" means a process that:
- 34 (i) is a voluntary option for the resolution of an adverse benefit determination;
  - 35 (ii) is conducted at the discretion of the claimant;
  - 36 (iii) is conducted by an independent review organization designated by the insurer;
  - 37 (iv) renders an independent and impartial decision on an adverse benefit determination  
38 submitted by an insured; and
  - 39 (v) may not require the insured to pay a fee for requesting the independent review.
- 40 (c) "Insured" is as defined in Section 31A-1-301 and includes a person who is  
41 authorized to act on the insured's behalf.
- 42 (d) "Insurer" is as defined in Section 31A-1-301 and includes:
- 43 (i) a health maintenance organization; and
  - 44 (ii) a third-party administrator that offers, sells, manages, or administers a health  
45 insurance policy or health maintenance organization contract that is subject to this title.
- 46 (e) "Internal review" means the process an insurer uses to review an insured's adverse  
47 benefit determination before the adverse benefit determination is submitted for independent  
48 review.
- 49 (2) This section applies generally to health insurance policies [~~and~~], health  
50 maintenance organization contracts [~~in effect on or after January 1, 2001~~], and income  
51 replacement or disability income policies.
- 52 (3) (a) An insured may submit an adverse benefit determination to the insurer.  
53 (b) The insurer shall conduct an internal review of the insured's adverse benefit  
54 determination.
- 55 (4) Before October 1, 2000, the commissioner shall adopt rules that establish minimum  
56 standards for:
- 57 (a) internal reviews;
  - 58 (b) independent reviews to ensure independence and impartiality;

59 (c) the types of adverse benefit determinations that may be submitted to an independent  
60 review; and

61 (d) the timing of the review process, including an expedited review when medically  
62 necessary.

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

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

66 (b) permitting an insurer to charge an insured for the internal review of an adverse  
67 benefit determination;

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

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

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

75 (ii) an adverse benefit determination or other claim that is not eligible for submission to  
76 independent review.

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**Legislative Review Note**  
**as of 12-3-02 3:06 PM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0080**

**Adverse Benefit Determination Amendments**

*09-Jan-03*

*4:24 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

This bill should be an economic benefit to individuals and businesses.

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**Office of the Legislative Fiscal Analyst**