1	ADVERSE BENEFIT DETERMINATION
2	AMENDMENTS
3	2003 GENERAL SESSION
4	STATE OF UTAH
5	Sponsor: Peter C. Knudson
6	This act amends the Insurance Code. The act amends the adverse benefit determination
7	review process for group health plans to include individual or group health plans and
8	income replacement or disability income policies.
9	This act affects sections of Utah Code Annotated 1953 as follows:
10	AMENDS:
11	31A-22-629, as last amended by Chapter 308, Laws of Utah 2002
12	Be it enacted by the Legislature of the state of Utah:
13	Section 1. Section 31A-22-629 is amended to read:
14	31A-22-629. Adverse benefit determination review process.
15	(1) As used in this section:
16	(a) (i) "Adverse benefit determination" means the:
17	(A) denial of a benefit;
18	(B) reduction of a benefit;
19	(C) termination of a benefit; or
20	(D) failure to provide or make payment, in whole or in part, for a benefit.
21	(ii) "Adverse benefit determination" includes:
22	(A) denial, reduction, termination, or failure to provide or make payment that is based
23	on a determination of an insured's or a beneficiary's eligibility to participate in a plan;
24	(B) with respect to individual or group health plans, and income replacement or
25	disability income policies, a denial, reduction, or termination of, or a failure to provide or make
26	payment, in whole or in part, for, a benefit resulting from the application of a utilization
27	review; and

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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;

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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.

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

State Impact

No fiscal impact.

Individual and Business Impact

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

Office of the Legislative Fiscal Analyst