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Senate Bill 1208 (as enrolled)
Sponsor: Senator John J. H. Schwarz, M.D.
Senate Committee: Health Policy
House Committee: Health Policy

PUBLIC ACT 398 of 2000

Date Completed: 2-21-01

CONTENT

The bill amended the Patient's Right to Independent Review Act to authorize the Commissioner of the Office of Financial and Insurance Services to conduct his or her own external review of an adverse determination, if a request for external review of the determination involves purely contractual provisions of a health benefit plan. The bill also allows a person to seek a judicial review if he or she is aggrieved by an external review decision.

Review by Commissioner

The Act contains procedures under which people with health coverage may seek external review of an adverse determination or final adverse determination (i.e., a determination by a health carrier or its designee utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and has been denied, reduced, or terminated). Under these procedures, the covered person may file a request for an external review with the Commissioner. The Commissioner must complete a preliminary review, make certain determinations, and decide whether to accept the request. When a request is accepted, the Commissioner must assign an independent review organization (IRO) to conduct the external review and make a recommendation to the Commissioner on whether to uphold or reverse the adverse determination.

Under the bill, in completing a preliminary review of a request for external review, the Commission must determine whether the health care service that is the subject of the adverse determination or final adverse determination appears to involve issues of medical necessity or clinical review criteria. (The Act defines "clinical review criteria" as the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by a health carrier to determine the necessity and appropriateness of health care services.)

The bill requires the Commissioner to assign an independent review organization if a request is accepted for external review and appears to involve issues of medical necessity or clinical review criteria. (Originally, the Commissioner had to assign an IRO in all cases in which a request was accepted.)

The bill further provides that, if a request is accepted for external review, does not appear to involve issues of medical necessity or clinical review criteria, and appears to involve only purely contractual provisions of a health benefit plan, such as covered benefits or accuracy of coding, the Commissioner may keep the request and conduct his or her own external review, or may assign an IRO at the time the request is accepted for external review. If the Commissioner keeps a request, he or she must review it and issue a decision upholding or reversing the adverse determination or final adverse determination within the same time limits and subject to all other requirements of the Act for requests assigned to an IRO (except as provided below). If at any time during the Commissioner's review of a request it is determined that the request does appear to involve issues of medical necessity or clinical review criteria, the Commissioner immediately must assign the request to an IRO approved to conduct external reviews.

Under the Act, within seven business days after receiving the selected IRO's recommendation, the Commissioner must give written notice to the covered person, his or her authorized representative, if applicable, and the health carrier of the decision to uphold or reverse the adverse determination. Under the bill, if the Commissioner has kept a request for review, he or she must give written notice of his or her decision to the same people within 14 days after deciding to keep the request for review.

Judicial Review

The Act specifies that an external review decision and an expedited external review decision are the final administrative remedies available under the Act. The bill also provides that, within 60 days from the date of the decision, a person aggrieved by an external review decision or an expedited external review decision may seek judicial review in the circuit court for the county where the covered person resides or in the Ingham County Circuit Court.

MCL 550.1911 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill amended the Act that was created by House Bill 5576. That bill will have an indeterminate fiscal impact on the Office of Financial and Insurance Services. The Office will be required under the bill to take on additional responsibilities for creating and implementing an independent review program, including approving and assigning independent review organizations, and collection and submission of reports and record-keeping for these organizations. According to the Department, this will require the hiring of additional staff to perform these functions. There is currently no information available about what these costs will total or what fund source will be used to cover them.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.