



South Carolina Department of Insurance

300 Arbor Lake Drive, Suite 1200
Columbia, South Carolina 29223

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

JIM HODGES
Governor

ERNST N CSISZAR
Director of Insurance

BULLETIN NUMBER 2001-4(A) (Issued upon November 13, 2001)

To: All Insurers Licensed to Transact Accident and Health Insurance Business within the State of South Carolina, All South Carolina Licensed Health Maintenance Organizations (HMOs), All South Carolina Certified Private Review Agents and All Other Interested Parties

From: Ernst N. Csiszar
Director

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar".

Re: Notice and Reporting Forms Required Under the Health Carrier External Review Model Act

I. PURPOSE

In accordance with the provisions of South Carolina's Health Carrier External Review Act, the purpose of this Bulletin is to:

- (1) Promulgate standardized language, in a specified font size and type, which may be used to comply with the notice requirements of South Carolina Code of Laws Section 38-71-1940; and
- (2) Promulgate reporting forms for health carriers and independent review organizations.

II. NOTICE REQUIREMENTS

South Carolina Code of Laws Section 38-71-1940 states:

“(A) A health carrier shall notify the covered person in writing of the right to request an external review and include the appropriate statements and information set forth in subsection (B) at the time the health carrier sends written notice of either an adverse determination or a final adverse determination.

(B)(1) The health carrier shall include in the notice required under subsection (A) a clear and concise description of the right of the covered person to request a standard external review pursuant to Section 38-71-1970 or an expedited external review pursuant to Section 38-71-1980 upon receipt of an adverse determination or a final adverse determination and the circumstances under which the covered person is not required to exhaust the health carrier's internal appeal process or is considered to have exhausted the health carrier's internal appeal process pursuant to Section 38-71-1960.

(2) In addition to the information to be provided pursuant to subsection (B)(1), the health carrier shall include a brief description of both the standard and expedited external review procedures.

(3) As part of any forms provided under subsection (B)(2), the health carrier shall include an authorization form, or other document promulgated or approved by the director or his designee, by which the covered person, for purposes of conducting an external review under this article, authorizes the health carrier to disclose protected health information, including medical records, concerning the covered person that are pertinent to the external review.

(C) A notice, statement, or form required by this section must achieve a score of no lower than 70 on the Flesch Reading Ease Test and must be printed in no smaller than 12 point type. No part of the notice, statement, or form may be printed in all capitals. A notice, statement, or form required by this section must include a statement of the right of the covered person to contact the director or his designee for assistance. The statement must include the telephone number and address of the director or his designee.

(D) A notice, statement, or form required by this section must be approved by the Department of Insurance. The director or his designee shall promulgate standard language, in a specified font size and type for any notice, statement, or form required by this section. Use of the standard language in the specified font size and type promulgated by the department pursuant to this section shall constitute compliance with the notice requirements of this section.”

In accordance with Section 38-71-1940(D), use of the “Patient’s Guide to External Review” set forth in Appendix A of this Bulletin and the “Medical Records Release” form set forth in Appendix B of this Bulletin shall constitute compliance with the notice requirements of Section 38-71-1940.

III. REPORTING REQUIREMENTS

South Carolina Code of Laws Section 38-71-2030 states:

“(A)(1) An independent review organization assigned pursuant to Section 38-71-1970 or Section 38-71-1980 to conduct an external review shall maintain written records in the aggregate and by health carrier on all requests for external review for which it conducted an external review during a calendar year and submit a report to the director or his designee, as required under subsection (A)(2).

(2) Each independent review organization required to maintain written records on all requests for external review pursuant to subsection (A)(1) for which it was assigned to conduct an external review shall submit to the director or his designee, no later than March first of each year and upon request by the director or his designee, a report in the format specified by the director or his designee.

(3) The report shall include in the aggregate and for each health carrier:

- (a) the total number of requests for external review and the manner in which they were resolved;
- (b) the average length of time for resolution;

(c) a summary of the types of coverages or cases for which an external review was sought, as provided in the format required by the director or his designee; and

(d) any other information the director or his designee may request or require.

(4) The independent review organization shall retain the written records required pursuant to this subsection for at least three years.

(B)(1) Each health carrier shall maintain written records in the aggregate and for each general type of health benefit plan offered by the health carrier on all requests for external review that are filed with the health carrier during a calendar year.

(2) Each health carrier required to maintain written records on all requests for external review pursuant to subsection (B)(1) shall submit to the director or his designee, no later than March first of each year and upon request by the director or his designee, a report in the format specified by the director or his designee.

- (3) The report shall include in the aggregate and by type of health benefit plan:
- (a) the total number of requests for external review and the manner in which they were resolved;
 - (b) the average length of time for resolution;
 - (c) a summary of the types of coverages or cases for which an external review was sought, as provided in the format required by the director or his designee; and
 - (d) any other information the director or his designee may request or require.
- (4) The health carrier shall retain the written records required pursuant to this subsection for at least three years.
- (C) The director or his designee shall make the reports required in this section available to any person for inspection and copying upon request.”

To satisfy the reporting requirements of Section 38-71-2030(A), an Independent Review Organization must use the reporting form set forth in Appendix C of this Bulletin. This form is available at www.state.sc.us/doi. The form must be submitted in electronic format to abishop@doi.state.sc.us. Also, an original must be submitted to Ann V. Bishop, Research and Compliance Analyst, South Carolina Department of Insurance, P. O. Box 100105, Columbia, South Carolina 29202-3105. The form is due no later than March first of each year for external reviews conducted in the previous calendar year.

To satisfy the reporting requirements of Section 38-71-2030(B), a health carrier must use the reporting form set forth in Appendix D of this Bulletin. This form is available at www.state.sc.us/doi. The form must be submitted in electronic format to abishop@doi.state.sc.us. Also, an original must be submitted to Ann V. Bishop, Research and Compliance Analyst, South Carolina Department of Insurance, P. O. Box 100105, Columbia, South Carolina 29202-3105. The form is due no later than March first of each year for external reviews conducted in the previous calendar year.

Appendix A

Patient's Guide to External Review

You may have a right to have this denial reviewed. An Independent Review Organization would do that review. The review would cost you nothing.

To begin this review, contact your health carrier. You must do this in writing.
[Insert health carrier name and address]

Please read the attached information.

If you have any questions, contact the Department of Insurance by writing or calling:

Consumer Services Division
South Carolina Department of Insurance
Post Office Box 100105
Columbia, South Carolina 29202-3105
(803) 737-6180
(800) 768-3467

Patient's Guide to External Review

You may have the right to ask for an external review if your health carrier denies service or payment for service. An Independent Review Organization (IRO) will look at that denial. The South Carolina Department of Insurance approves all IROs. You cannot ask for an external review if your plan does not cover the service. This guide is a summary of some of your rights. The Health Carrier External Review Act defines those rights.

Eligibility

You can have an external review only if you meet the following items:

- The service or payment for service was denied, reduced or terminated because:
 - the service does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness; or
 - the service was experimental or investigational and involves a life-threatening or seriously disabling condition;
- The amount payable for covered benefits is at least \$500, and
- You have completed your health carrier's internal appeals process.
 - You do not have to complete the internal appeals process if:
 - a. Your treating physician has certified in writing that you have a serious medical condition;
 - b. The service is experimental or investigational and your treating physician has provided the required certifications;
 - c. The health carrier has not issued a written decision within the time frames set forth in the health carrier's internal appeals process. It must have received all the information from you that it needs to complete the appeal. You or your authorized representative must not have agreed to a delay; or
 - d. The health carrier agrees to waive the internal appeals process.
 - You always have to complete the internal appeals process if you have already received the service.

Types of External Reviews

There are two types of external reviews. The first is the standard external review. The second is the expedited external review. Expedited means "done quicker." You will find the procedures for requesting each type of review below. A list of helpful terms may be found at the end of this notice.

Standard External Review

You have only 60 days to ask for a standard external review. Your 60 days start when you receive written notice of denial from the health carrier.

First, you or someone acting for you must:

- Notify the health carrier that you are asking for a standard external review. You must do this in writing;
- If your health carrier said the treatment was "experimental" or "investigational," enclose a letter or certificate from your treating physician. See "Requirements for Physician's Certificate" at the end of this notice; and
- Enclose a signed Medical Records Release form. This allows your health carrier to give your records to the IRO.

Second, your health carrier must:

- Assign your request to an IRO;
- Send the IRO copies of the information it used to deny the service;
- Send you a notice that it took these actions;
- Or tell you why you will not get an external review. If you have any questions, contact the South Carolina Department of Insurance.

Your health carrier must do all these things within five working days of receiving your request.

Third, within five working days of receiving your case, the IRO must:

- Decide if it has all the information it needs to review the case.
- Notify you if it needs more information. The IRO will tell you exactly what it needs. You must return this information to the IRO. You have seven working days after you receive the notice from the IRO to do this.

The IRO must notify you and the health carrier within 45 days of its decision.

Expedited External Review

You have only 15 days to ask for an expedited external review. Your 15 days start when you receive written notice of denial from the health carrier. You can have an expedited external review:

- if your treating physician certifies that you have a serious medical condition which requires immediate treatment; or
- you received emergency medical care, have not been discharged from a facility, and may be held financially responsible for the emergency medical care.

First, you or someone acting for you must:

- Notify the health carrier that you are asking for an expedited external review. You must do this in writing;
- Enclose a letter or certificate from your treating physician. This letter or certificate must state that you have a serious medical condition;
- If your health plan said the treatment was “experimental” or “investigational,” your treating physician has to say more things. See “Requirements for Physician’s Certificate” at the end of this notice; and
- Enclose a signed Medical Records Release form. This allows your health carrier to give your records to the IRO.

Second, your health carrier must:

- Assign your request to an IRO;
- Send the IRO copies of the information it used to deny the service;
- Send you a notice that it took these actions;
- Or tell you why you will not get an external review. If you have any questions, contact the South Carolina Department of Insurance.

Your health carrier must do all these things as quickly as possible.

The IRO must notify you and the health carrier within three working days of its decision.

Understanding the Results of the Review

If the IRO finds in your favor, your health carrier must approve the covered benefit. If the IRO does not find in your favor, you cannot request another review for the same denial.

Requirements for Physician's Certificate

Give this to your treating physician if:

- **you have a serious medical condition; or**
- **the health carrier denied the service or payment for service because it was experimental or investigational.**

The information below tells your treating physician what must be included on this certificate. It also tells when the certificate is needed. The certificate must be sent to your health carrier.

Standard External Review

If the denial of coverage is based on a determination that the health care service or treatment recommended or requested is experimental or investigational, the request for review must include a certification from the covered person's treating physician who must be a licensed physician qualified to practice in the area of medicine appropriate to treat the covered person's condition and state that:

- (a) the covered person has a life-threatening disease or seriously disabling condition; and
- (b) at least one of the following situations is applicable:
 - (i) standard health care services or treatments have not been effective in improving the condition of the covered person;
 - (ii) standard health care services or treatments are not medically appropriate for the covered person; or
 - (iii) the recommended or requested service or treatment is more beneficial than the standard health care service or treatment covered by the health carrier; and
- (c) medical and scientific evidence using accepted protocols demonstrate that the health care service or treatment requested by the covered person that is the subject of the adverse determination or final adverse determination is more beneficial to the covered person than available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of the standard services or treatments.

Expedited External Review

- Your treating physician must certify that your health condition or illness requires immediate medical attention, where failure to provide immediate medical attention would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place your health in serious jeopardy.
- If your health carrier said the treatment was experimental or investigational, the treating physician must give an additional certification. This certification must be from the covered person's treating physician who must be a licensed physician qualified to practice in the area of medicine appropriate to treat the covered person's condition and state that:
 - (a) the covered person has a life-threatening disease or seriously disabling condition; and
 - (b) at least one of the following situations is applicable:
 - (i) standard health care services or treatments have not been effective in improving the condition of the covered person;
 - (ii) standard health care services or treatments are not medically appropriate for the covered person; or
 - (iii) the recommended or requested service or treatment is more beneficial than the standard health care service or treatment covered by the health carrier; and
 - (c) medical and scientific evidence using accepted protocols demonstrate that the health care service or treatment requested by the covered person that is the subject of the adverse determination or final adverse determination is more beneficial to the covered person than available standard health care services or treatments and the adverse risks of the recommended or requested health care service or treatment would not be substantially increased over those of the standard services or treatments.

Helpful Terms

Life-threatening condition or disease means a condition or disease which, according to the current diagnosis by the treating physician, has a high probability of causing the covered person's death within three years.

Serious medical condition means a health condition or illness that requires immediate medical attention, where failure to provide immediate medical attention would result in a serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

Seriously disabling means a health condition or illness that involves a serious impairment to bodily functions or serious dysfunction of a bodily organ or part.

If you have any questions, contact the Department of Insurance by writing or calling:

**Consumer Services Division
South Carolina Department of Insurance
Post Office Box 100105
Columbia, South Carolina 29202-3105
(803) 737-6180
(800) 768-3467**

Appendix B

Medical Records Release

(1) (Name of provider and/or health carrier) _____ can disclose the following information from the health records of:

Patient Name: _____ Date of Birth: _____

Address: _____

Telephone: _____ ID Number: _____

The records cover the period(s) of health care related to this request for external review.

(2) Information to be disclosed:

Health information, including medical records, relating to this request for external review.

I understand that this may include information relating to (check if any apply):

____ AIDS (Acquired Immunodeficiency Syndrome) or HIV (Human Immunodeficiency Virus) Infection

____ Psychiatric Care

____ Treatment for alcohol and/or drug abuse

(3) This information will be disclosed to the Independent Review Organization (IRO). This information will only be used for this external review.

(4) I can withdraw this release at any time. I must do that in writing. I understand that information may already have been disclosed. Without these records, the covered person will not get an external review. Otherwise, this release will end when the external review ends.

Signature of Patient _____ Date: _____

or Legal Representative: _____ Date: _____

If the covered person has any questions, contact the South Carolina Department of Insurance by writing or calling: Consumer Services Division, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105, (803) 737-6180 or 1-800-768-3467.

Appendix C

South Carolina Department of Insurance
 Independent Review Organization (IRO) External Review Reporting Form
 (Due March 1 of each year)

Calendar year: _____

IRO Name: _____

Address: _____

Contact Person: _____

Telephone: _____ Fax: _____ E-mail: _____

Health Carrier	Number of Requests Received	IRO Denied Review	IRO Terminated Review	Carrier Terminated Review	Resolution		IRO Cases Completed	Average Resolution Time (days)*
					Upheld	Reversed		
Total								

* Number of days from receipt of case materials from carrier to notification of external review determination.

Health Carrier	Number of Medical Necessity Reviews	Number of Experimental Or Investigational Treatment Reviews	Expedited			Standard		
			Number of Reviews	Average Resolution Time (days)*	Number Exceeding Statutory Time Frames	Number of Reviews	Average Resolution Time (days)*	Number Exceeding Statutory Time Frames

*Number of days from receipt of case materials from carrier to notification of external review determination.

I, (officer of the IRO) _____, certify that the above information is a complete and accurate reflection of the requests for external review received by (IRO) _____ during the calendar year.

Signature

Name

Title

Date

Appendix D
 South Carolina Department of Insurance
 Health Carrier External Review Reporting Form
 (Due March 1 of each year)

Calendar year: _____

Health Carrier Name: _____

Address: _____

Contact Person: _____

Telephone: _____ Fax: _____ E-mail: _____

Type of Request	Number of Requests	Health Carrier Denied	Health Carrier Terminated Review	IRO Denied Review	IRO Terminated Review	Resolution		Average Resolution Time (days)*	Number Exceeding Statutory Time Frames
						Upheld	Reversed		
Expedited									
Standard									
Total									

*Number of days from receipt of case materials from carrier to notification of external review determination.

Advise as to reasons for Health Carrier Denials:

Provide a summary of the types of coverages or cases for which an external review was sought:

I, (officer of the health carrier), _____, certify that the above information is a complete and accurate reflection of the requests for external review received by (health carrier) _____ during the calendar year.

Signature

Name

Title

Date