



INFORMATIONAL MEMORANDUM

OIR-11-07M

ISSUED

October 4, 2011

Florida Office of Insurance Regulation

Kevin M. McCarty, Commissioner

ALL HEALTH INSURERS AND HMOs

EXTERNAL REVIEW

The purpose of this memorandum is to notify health insurers and health maintenance organizations (HMOs) of the recent amendment of the federal interim final rules relating to Internal Claims and Appeals and External Review Processes as required by the Patient Protection and Affordable Care Act (PPACA). The rule may be viewed in its entirety in Vol. 75 Federal Register, 43,330 (July 23, 2010). Guidance on External Review and State External Review Processes is provided by the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) in Technical Release 2011-02 issued on June 22, 2011.

The rule became effective September 21, 2010, and is applicable to group health plans (including self-insured groups, governmental and church plans) and health insurance issuers offering group or individual health coverage which were issued on or after September 23, 2010. The requirements do not apply to grandfathered health plans.

External Review

With respect to Technical Release 2011-02, please note that HHS has established standards that are *similar* to the federal minimum standards for external review. State external review programs that do not meet the federal minimum standards can continue to operate until 2014 if they meet the similar standards. Non-grandfathered plans and issuers in states whose external review systems do not meet either of these standards will be subject to the Federally-administered external review process beginning January 1, 2012.

Florida's external review process does not meet the standards for National Association of Insurance Commissioners (NAIC)-parallel processes or the standards for NAIC-similar review processes outlined in the technical release, therefore, issuers must participate in a Federally-administered external review process. Issuers may choose to participate in the Federal external review process administered the Office of Personnel Management (OPM) or engage in the private accredited Independent Review Organization (IRO) process for plans subject to ERISA. See

http://cciio.hhs.gov/resources/files/hhs_srg_elections_06222011.pdf

The amended appeals interim final rule (IFR) can be viewed at:
<http://edocket.access.gpo.gov/2010/pdf/2010-18043.pdf>

Sub-regulatory guidance (Technical Release 2011-02) that includes temporary standards for State external review processes, effective until January 1, 2014, that are similar to the 16 mandatory consumer protections previously included in the IFR can be viewed at:
http://cciio.cms.gov/resources/files/appeals_srg_06222011.pdf

The Office notes that for HMOs, the federal process is in addition to the Subscriber Assistance Program prescribed in Section 408.7056, Florida Statutes.

If you have any questions regarding the contents of this Memorandum, please contact Eric Lingswiler, Director, Life and Health Product Review, Florida Office of Insurance Regulation at Eric.Lingswiler@florir.com or (850) 413-5110.