

Highlights of Patient Protection and Affordable Care Act (PPACA) of 2010

Subject: Internal Claims, Appeals and External Review Processes

Summary

According to the Patient Protection and Affordable Care Act of 2010 (also referred to as Health Care Reform), effective for new plans and plan renewals on or after September 23, 2010, the rules for internal claims, initial requests for services, appeals and external review processes for group health plans and insurance coverage have changed.

Which products have been affected?

All commercial non-grandfathered insured products, including group, direct pay and Healthy NY. Further, self-funded groups and product offerings are affected by this provision. Excellus BlueCross BlueShield has revised its internal claims, utilization review and appeals processes, including denial notices, in support of these changes.

The changes are summarized in the 3 areas below:

1. Adverse Determination Notifications, Explanation of Benefits (EOBs), Grievance Letters, and Appeals Letters

- Notices will contain additional information including: rationale used in the determination, instructions outlining how to obtain additional information about denial and treatment codes and explanation of these codes, and health insurance consumer assistance contact information to assist with the appeals process.

2. Non-English Language Availability

- **Individual and Group Plans:** Notices related to adverse determinations, Explanation of Benefits (EOBs), Grievance Letters, and Appeals Letters will be provided in a language other than English when at least 10% of the residents in the county where a claimant resides are only literate in the same non-English language.

If the above thresholds of non-English speakers are met, notices will be offered in that non-English language, upon request. Additionally, customer service through our call center is available in non-English languages.

3. External Appeals

- **Insured Groups:** Plans will continue to use the New York state external appeal process.
- **Self-Funded Groups:** Self-funded groups must implement their own external appeal process that complies with federal requirements. Self-funded groups will not be allowed to use the New York state external appeal process. We will be assisting our groups with this requirement.

Frequently Asked Questions

Q1. Which products are included in the Health Care Reform (HCR) Claims, Appeals and External Appeals Provisions?

A1. Affected products include: all commercial non-grandfathered insured and self-insured products and Healthy NY.

HCR Claims, Appeals and External Appeals Provisions do not apply to the following products: Child Health Plus, Medicaid, Family Health Plus, Medicare Advantage, Medicare Supplement Insurance, group and individual grandfathered policies.

Q2. Is it true that Health Insurance Issuers of *Group Plans* must now provide *all* notifications in both English and other languages at the request of the member?

A2. No. Subscribers and members will receive notifications in other languages *only* when certain criteria are met (see the criteria explained in # 2 above.)

Q3. Under HCR, what is the new timeframe for determining urgent appeals?

A3. There has been no change. The timeframe for determining urgent *appeals* remains at 72 hours.

Q4. Will new member handbooks, contracts riders or group benefit summaries be issued to reflect the changes in the HCR Claims, Appeals and External Appeals Provisions? If so, when should we expect to receive these booklets?

A4. New materials will be updated and issued as soon as they are available.

Q5. How long does a member of an insured group plan have to file an external appeal with New York state, if they are not satisfied with a Final Adverse Determination?

A5. Members currently have 45 days after the issuance of a Final Adverse Determination on internal appeal to file an External Appeal with New York state. Under HCR, the filing timeframe has been extended to four months.

Q6. Can a self-funded plan use the New York State Insurance Department's External Appeal process?

A6. No, New York State has determined that self-funded plans will not be permitted to use the state external process. Self-funded groups are required to set their own process in accordance with the relevant regulations.

If you would like assistance establishing an external appeal process, we are able to accommodate your request. Detailed information regarding this value added service is available on request.

Q7. What are the details regarding the enforcement grace period given for HCR Claims, Appeals and External Appeals?

A7. The United States Department of Labor issued a technical release on September 20, 2010, providing an "enforcement grace period" or "enforcement safe harbor" which covers some but not all of the HCR Claims, Appeals and External Appeals Provisions up until July 1, 2011. Employer groups and health plans must demonstrate that a "good faith" effort is being taken to implement the HCR provisions. On June 24, 2011, additional regulations and technical documentation released by the U. S. Department of Health and Human Services extended several provisions related to of the Claims, Appeals and External Appeals for plans new or renewing on or after January 1, 2012.

For the latest updates on Health Care Reform, visit excellusbcb.com/healthreform

The information provided here is not intended to advise you on how to comply with any provisions of the referenced legislation or related legislation or regulations, nor is it otherwise intended to impart any legal advice.

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