

CHAPTER 76
EXTERNAL REVIEW

191—76.1(514J) Purpose. This chapter is intended to implement Iowa Code chapter 514J to provide a uniform process for enrollees of carriers and organized delivery systems providing health insurance coverage to request an external review of a coverage decision based upon medical necessity. Carriers defined in Iowa Code section 514J.2(1) and organized delivery systems as defined in Iowa Code section 514J.2(6) are subject to these rules.

191—76.2(514J) Applicable law. The rules contained in this chapter shall apply to any sickness or accident plan and any plan of health insurance, health care benefits or health care services delivered or issued for delivery in this state by an insurance company, a health maintenance organization, or a nonprofit health service corporation, and any plan established pursuant to Iowa Code chapter 509A.

191—76.3(514J) Notice of coverage decision and content. The notice required under Iowa Code chapter 514J shall contain the following information:

1. The enrollee was covered by the carrier at the time the service or treatment was proposed;
2. The enrollee has been denied coverage based on a determination by the carrier that the proposed service or treatment does not meet the definition of medical necessity;
3. The enrollee or the enrollee's treating health care provider acting on behalf of the enrollee has exhausted all internal appeal mechanisms provided under the carrier's evidence of coverage; and
4. Information on how the enrollee or the enrollee's treating health care provider can request an external review. The information provided shall specify the following:
 - The enrollee or the enrollee's treating health care provider must send the request for an external review within 60 days of receipt of the coverage decision from the carrier;
 - The request shall be made to the Division of Insurance, 330 Maple Street, Des Moines, Iowa 50319;
 - A copy of the carrier's coverage decision shall accompany the written request for an external review;
 - A \$25 filing fee is required unless the enrollee is requesting that the fee be waived. The check should be made payable to the Insurance Division. If a waiver is requested, the request shall include an explanation of why the enrollee is requesting that the fee be waived.

191—76.4(514J) External review request.

76.4(1) The enrollee shall send a copy of the carrier's or organized delivery system's written notice containing the coverage decision with the enrollee's request for an external review to the insurance commissioner within 60 days of the receipt of the coverage decision. The notice shall be sent to the commissioner at the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319.

76.4(2) A \$25 filing fee shall be enclosed with the external review request. The commissioner may waive the fee for good cause.

191—76.5(514J) Certification process.

76.5(1) The commissioner shall fax the certification decision to the carrier or organized delivery system and the enrollee or the enrollee's treating health care provider acting on behalf of the enrollee within the two-day period specified in Iowa Code section 514J.5(1).

76.5(2) The commissioner has two business days to rule on a carrier's or organized delivery system's contest of the commissioner's certification decision. The commissioner shall provide a written notice of the determination by fax within the two-day period to the carrier or organized delivery system and the enrollee or the enrollee's treating health care provider acting on behalf of the enrollee.

191—76.6(514J) Expedited review.

76.6(1) The enrollee's treating health care provider shall directly contact the carrier or organized delivery system for an expedited review if the enrollee's treating health care provider states that delay would pose an imminent or serious threat to the enrollee.

76.6(2) The enrollee's treating health care provider and the carrier or organized delivery system shall select within 72 hours an independent review entity to conduct the external review. In the event that the enrollee's treating health care provider and the carrier or organized delivery system cannot reach an agreement upon the selection of an independent review entity, the enrollee's treating health care provider shall notify the commissioner who shall select an independent review entity.

76.6(3) The carrier or organized delivery system and the enrollee's treating health care provider shall provide any additional medical information to the review entity.

76.6(4) The enrollee's treating health care provider shall notify the commissioner of the expedited review request following the agreement in subrule 76.6(2).

76.6(5) In the event the carrier or organized delivery system does not find that a delay would pose an imminent or serious threat to the enrollee, the enrollee's treating health care provider may ask the commissioner to immediately review the request for certification as an expedited review.

76.6(6) A review by the commissioner under subrule 76.6(5) shall stay the 72-hour expedited review time period.

191—76.7(514J) Decision notification. The independent review entity shall immediately notify the carrier or organized delivery system, enrollee or enrollee's treating health care provider, and insurance division of the external appeal decision. The initial notification shall be delivered by telephone or fax transmission, and a hard copy of the notice may be delivered by regular mail.

191—76.8(514J) Carrier information.

76.8(1) Each carrier or organized delivery system shall provide to the commissioner the name or title, telephone and fax numbers and E-mail address of an individual who shall be the carrier's or organized delivery system's contact person for external review procedures. Any changes in personnel or communication numbers shall be immediately sent to the commissioner.

76.8(2) Each carrier or organized delivery system shall provide to the commissioner a detailed description of the process the carrier or organized delivery system has in place to ensure compliance with the requirements found in this chapter and in Iowa Code chapter 514J. The description shall include:

a. An explanation of how the carrier or organized delivery system determines when a person has qualified for external review and should receive a notice from the carrier or organized delivery system, and

b. A copy of the notice sent to persons who fall within the scope of the law.

Information required by this subrule shall be filed by March 1, 2002, and thereafter biennially on March 1.

191—76.9(514J) Certification of independent review entity.

76.9(1) The following minimum standards are required for certification as an independent review entity:

a. The individual must hold a current unrestricted license to practice a health care profession in the United States.

b. A health care professional who is a medical physician shall also hold a certification by a recognized American medical specialty board.

c. A health care professional who is not a medical physician shall also hold a current certification by the professional's respective licensing or specialty board if applicable.

d. The applicant must attest that reviewers have no history of disciplinary actions or sanctions including, but not limited to, the loss of staff privileges or any participation restriction taken or pending

by any hospital or state or federal government regulatory agency for wrongdoing by the health care professional.

e. The applicant shall provide a description of the qualifications of the reviewers retained to conduct external reviews of coverage decisions including the reviewers' current and past employment histories and practice affiliations.

f. The applicant shall provide a description of the procedures employed to ensure that reviewers conducting external reviews are appropriately licensed, registered or certified; trained in the principles, procedures and standards of the independent review entity; and knowledgeable about the health care service which is the subject of the external review.

g. The applicant shall provide a description of the methods of recruiting and selecting impartial reviewers and matching such reviewers to specific cases.

h. The applicant shall provide the number of reviewers retained by the independent review entity and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review.

i. The applicant shall provide a description of the policies and procedures employed to protect confidentiality of individual medical and treatment records in accordance with applicable state and federal law.

j. The applicant shall provide a description of the quality assurance program established by the independent review entity.

k. The applicant shall provide the names of all corporations and organizations owned or controlled by the independent review entity or which own or control the applicant, and the nature and extent of any such ownership or control.

l. The applicant shall provide the names and résumés of all directors, officers, and executives of the independent review entity.

m. The applicant shall provide a description of the fees to be charged by the review entity for external reviews.

n. The applicant shall provide the name of the medical director or health professional director responsible for the supervision and oversight of the independent review procedure.

76.9(2) The independent review entity shall develop written policies and procedures governing all aspects of the external review process including, at a minimum, the following:

a. Procedures to ensure that external reviews are conducted within the time frames specified in this chapter and Iowa Code chapter 514J and that any required notices are provided in a timely manner.

b. Procedures to ensure the selection of qualified and impartial reviewers. The reviewers shall be qualified to render impartial determinations relating to the health care service which is the subject of the coverage decision under external review. The reviewers shall be experts in the treatment of the medical condition under review.

c. Procedures to ensure that the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, is notified in writing of the enrollee's right to object to the independent review entity selected by the carrier or organized delivery system or the person selected as the reviewer by the independent review entity by notifying the commissioner at the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, within ten days of the mailing of the notice by the independent review entity.

d. Procedures to ensure the confidentiality of medical and health treatment records and review materials.

e. Procedures to ensure adherence to the requirements of this chapter and Iowa Code chapter 514J by any contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review entity.

76.9(3) The independent review entity shall establish a quality assurance program. The program shall include a written description to be provided to all individuals involved in the program, the organizational arrangements, and the ongoing procedures for the identification, evaluation, resolution and follow-up of potential and actual problems in external reviews performed by the independent review entity and procedures to ensure the maintenance of program standards pursuant to this requirement.

76.9(4) The independent review entity shall establish a toll-free telephone service to receive information relating to external reviews pursuant to this chapter and Iowa Code chapter 514J. The system shall include a procedure to ensure the capability of accepting, recording, or providing instruction to incoming telephone calls during other than normal business hours. The independent review entity shall also establish a facsimile and electronic mail service.

76.9(5) No independent review entity, officer, director, employee, or reviewer employed or engaged to conduct external reviews shall have any material professional affiliation or material financial affiliation with a health plan for which it is conducting a review.

76.9(6) The independent review entity shall provide the commissioner such data, information, and reports as the commissioner determines necessary to evaluate the external review process established under Iowa Code chapter 514J.

76.9(7) Applications shall be submitted in duplicate to the Commissioner of Insurance, 330 Maple Street, Des Moines, Iowa 50319. Applications must be submitted in full to be considered. All applicants will be notified of the certification decision. A list of certified independent review entities shall be maintained at the division of insurance and shall be available through the division's Web site.

These rules are intended to implement Iowa Code chapter 514J as amended by 2001 Iowa Acts, Senate File 500.

[Filed 10/29/99, Notice 9/22/99—published 11/17/99, effective 12/22/99]

[Filed 4/10/00, Notice 1/12/00—published 5/3/00, effective 6/7/00]

[Filed 11/21/01, Notice 10/17/01—published 12/12/01, effective 1/16/02]