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Affordable Care Act: Working with States to Protect Consumers

The Affordable Care Act establishes common-sense consumer protections and requires insurers to operate in a more transparent manner. Fair rules and transparency help create a more level playing field between consumers and insurers. The law also empowers States by putting them in the driver's seat in implementing many of these new consumer protections.

On July 23, 2010, the Departments of Health and Human Services, Labor, and the Treasury issued an interim final rule regarding internal claims and appeals and external review processes for group health plans and health insurance issuers offering coverage in the group and individual markets. This rule works to give people in most plans better information about what their rights are and why their claims were denied or coverage rescinded. Under the rule, consumers have the:

- **Right to information about why you've been denied.** Health plans and insurance companies have to tell you why they've decided to deny a claim or chosen to end your coverage – and how you can appeal that decision.
- **Right to appeal to your insurance company.** If you've had a claim denied or had your coverage rescinded, you have the right to an internal appeals process, a process in which you ask your insurance company to conduct a full and fair review of its decision. If the case is urgent, your insurance company must speed up this process.
- **Right to an independent review.** Often, insurers and their policyholders can resolve disputes during the internal appeals process. If you can't work it out through the internal appeals process, you now have the right to take your appeal to an independent third-party for review of the insurer's decision. This is called "external review." This way, the insurance company no longer gets the final say regarding your benefits, and patients and doctors get a greater measure of control over health care.

These protections and standards are an important step forward in reforming the health care system to make sure it works for consumers, not just insurance companies.

Amended IFR: State Flexibility and Transition to 2014

Today the Departments are amending the July 23rd, 2010 Interim Final Rule. Amendments to the IFR maintain the unprecedented consumer protections provided in the Affordable Care Act while reflecting comments from stakeholders and give States the flexibility they need to implement the law.

The July 2010 IFR set forth 16 minimum consumer protections based on the Uniform Health Carrier External Review Model Act written by the National Association of Insurance Commissioners (NAIC) that, if provided by a State external review process, will result in the States' process applying in lieu of a Federal external review process.

Many States have made progress in meeting the minimum standards laid out in the July 23rd, 2010 IFR. To give States a reasonable opportunity to continue to implement these important consumer protections the amended IFR extends the transition period for State external review processes to January 1, 2012.

During the transition period (until January 1, 2012), at a minimum, plans and issuers are expected to follow their State laws and processes for external review in the States in which they are operating. Plans and issuers in States and territories where the HHS-administered Federal external review process already applies as of the date of this guidance are expected to continue their participation in the Federally-administered external review process until HHS determines otherwise.

In addition, separate guidance being issued contemporaneously with the publication of this amendment announces standards under which, until January 1, 2014, a State may operate an external review process under Federal standards similar to the required consumer protections outlined in the July 23, 2010 IFR. Under this guidance, if HHS determines that a State has neither implemented the required consumer protections nor implemented a process that meets the Federal standards that are similar to the required consumer protections, issuers in the State will have the choice of participating in either the HHS-administered external review process or contracting with accredited Independent Review Organizations. This guidance also phases in the use of multiple Independent Review Organizations for the plans that use them starting next year as a way of ensuring that the external review is unbiased.

HHS is adopting this approach to permit States to operate their external processes under standards established by the Secretary until January 1, 2014 to avoid unnecessary disruption while States work to adopt the consumer protections set forth in the July 2010 regulations. Starting in 2014, the appeals process across all types of plans will be aligned.

Additional Amendments to the IFR:

The amended IFR released today includes details of all of the changes made from the original IFR. You can find the text of this amended IFR : http://www.ofr.gov/OFRUpload/OFRData/2011-15890_PI.pdf

This announcement can be found here: <http://cciio.cms.gov/resources/factsheets/index.html#csi>

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