

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

C.L. "BUTCH" OTTER  
Governor

700 West State Street, 3rd Floor  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Phone (208) 334-4250 Fax (208) 334-4298  
<http://www.doi.idaho.gov>

WILLIAM W. DEAL  
Director

**BULLETIN NO. 09-08**

**DATE:** August 20, 2009

**TO:** Disability/Health Insurance Carriers and  
Independent Review Organizations

**FROM:** William W. Deal, Director

**SUBJECT:** Idaho Health Carrier External Review Act

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The purpose of this bulletin is to alert health insurance carriers to important changes in Idaho law arising from the Idaho Health Carrier External Review Act. The Act is codified at Title 41, Chapter 59, of the Idaho Code, and will apply to health plans issued or renewed in Idaho on or after January 1, 2010. The Act provides insureds a right to have a health claim denial reviewed by an independent reviewer if the denial is based on a finding by the plan that a service or supply is not medically necessary or is investigational. The Idaho Code can be viewed online at:  
<http://www.legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>.

**Applicability**

The External Review Act applies to any final adverse benefit determination made by a health carrier that involves an issue of medical necessity or investigational service or supply. A final adverse benefit determination occurs when internal grievance procedures are completed and the health carrier notifies the insured that the claim will not be covered in whole or in part. The Act broadly defines "health carrier" to include any entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the Director, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services. The term includes a disability insurance company, a health maintenance organization, a health service corporation, or any entity providing a plan of health insurance, health benefits or health care services. All health carriers should carefully review Chapter 59 of Title 41, Idaho Code, and become familiar with the requirements and responsibilities arising from the new law.

**Required Disclosures**

Carriers are required to develop and file with the Department evidences of coverage and disclosures consistent with Idaho Code sections 41-5905 and 41-5916. This filing should include a description of the carrier's method for resolving inquiries and complaints from insureds that is consistent with the Act, along with a description of the insurer's internal grievance process and the external review process. Policies and certificates must

establish reasonable procedures for the filing of benefit claims and notification of benefit determinations, including appeal procedures and timelines for adverse benefit determinations. The new law requires that health carriers include a summary description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage they provide to covered persons. The format for these disclosures will be prescribed by the Department through administrative rulemaking and available through the Department's website. Health plans that are subject to the new law must be refiled with the Department to show they have been amended to come into compliance with the new law.

### **Independent Review**

When the Department receives a request for independent review of a health claim denial, it will determine whether the request is eligible for review under the new law. If it is eligible for review, the request will be randomly assigned to an independent review organization that has been approved by the Department to review health claims. For plans that are not subject to ERISA (generally individual plans), the decision of the independent review organization will be binding on both the insurer and the insured. For plans that are subject to ERISA (generally employer sponsored plans), the decision of the independent review organization will be binding on the insurer. The insurer will be responsible for determining and informing the insured whether or not a plan is subject to ERISA. The Act also includes procedures for expedited review in cases involving medical urgency.

In order to act as an independent review organization under the new law, the organization must be accredited by URAC, a nationally recognized private accrediting entity, and approved by the Department of Insurance. In order to become approved, the organization must submit an application to the Department. Notice of the application will be published on the Department's website to provide an opportunity for public comment. Application forms are available through the Department's website or by contacting the licensing section of the Department.

Additional information on implementation of this Act is available on the Department website at [www.doi.idaho.gov](http://www.doi.idaho.gov).