

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

BULLETIN NO. 10-2011

DATE: December 5, 2011

TO: ALL LICENSED HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, HOSPITAL AND MEDICAL SERVICE CORPORATIONS; INDEPENDENT REVIEW ORGANIZATIONS; AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: RULE 76, "EXTERNAL REVIEW REGULATION"

The Arkansas Insurance Department ("Department") recently promulgated Department Rule 76, "Arkansas External Review Regulation." This Rule replaces in its entirety the Department's earlier Rule 76 of the same name and subject matter. The Rule refers to an insured's right to have an independent review organization ("IRO") review an adverse benefit determination by a health insurer, health maintenance organization, or hospital and medical service corporation (hereafter, "health insurers"). The Department held an administrative hearing on July 15, 2011 and received public comments on the proposed changes to Rule 76. After the administrative hearing, the Commissioner kept the record open for an additional thirty (30) days to consider further corrections to the Rule.

The new amendments to Rule 76 adopted provisions in the National Association of Insurance Commissioners (NAIC) recent Model External Review Act. One of the most significant changes adopted from the Model requires the Commissioner to select the IRO to conduct the external review, rather than the health insurer. Additionally, under the new requirements, the Department is more involved in the processing of the external review request. Threshold amount requirements of the claims entitled to external review have been removed, as well as the prerequisite that the adverse claim determination relate to a denial over medical necessity or experimental treatment. Finally, the amendments are needed to avoid federal preemption over state regulation of this process under recent federal health care reform measures. The effective date of amended Rule 76 will be January 1, 2012.

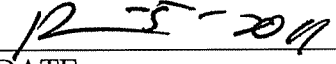
This Bulletin is issued to advise health insurers, health maintenance organizations, hospital medical service corporations and independent review organizations of the amended Rule, as well as to notify health insurers and IROs that the amended Rule as well as forms for implementing and complying with the amended Rule are available for review in the Department's Administrative Rules section on its website.

Please be advised that IROs currently licensed by the Department under the earlier version of Rule 76, do not need to re-apply for licensure on or after the effective date of this

Rule, to participate in external reviews conducted under the recent amendments. In addition, it is the Department's view that because the conflict restrictions and quality assurance mechanisms under Section 13 of the Rule are substantially similar to requirements under the previous Rule, IROs previously licensed by the Department do not need to send to the Department for review all its written procedures on quality assurance. However, the Department expects all IROs participating in external reviews to adopt and comply with the new requirements and forms, internally, to the extent the requirements have changed.



JAY BRADFORD
ARKANSAS INSURANCE COMMISSIONER



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