

COMMONWEALTH OF VIRGINIA



SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

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May 17, 2019

Administrative Letter 2019-02

TO: All Health Carriers Licensed in Virginia and Interested Parties

RE: External Review of Adverse Coverage Determinations for Cancer Patients

The purpose of this Administrative Letter is to provide guidance for the submission of complaint system filings, notice and policy form requirements to comply with the provisions of Chapter 826 (House Bill 1915) and Chapter 840 (Senate Bill 1161) enacted by the General Assembly during its 2019 legislative session.

Chapter 826 (House Bill 1915) and Chapter 840 (Senate Bill 1161) of the Acts of General Assembly, became effective April 3, 2019, and amend the following sections within Title 38.2 of the Code of Virginia: §§38.2-3559, 38.2-3560, 38.2-3561 and 38.2-3562. The bills establish that a covered person is not required to exhaust the health carrier's internal appeal process before seeking a standard or expedited external review of an adverse determination involving the treatment of cancer. In the event of an adverse determination, the health carrier must notify the covered person of this right. **The bills are applicable to all plans offered by health carriers except those specifically excluded in Virginia Code § 38.2-3557.**

Complaint System Filings

Code of Virginia § 38.2-5804 requires all Managed Care Health Insurance Plans (MCHIPs) to file their complaint systems with the State Corporation Commission and the State Health Commissioner. The State Corporation Commission's Bureau of Insurance (Bureau) anticipates that all health carriers will need to revise existing complaint and appeal procedures, and that all MCHIPs that are health carriers will need to refile for approval revised complaint and appeal procedures. The Bureau's Complaint System and Appeal Procedures/MCHIP Filing Requirements checklist has been updated to incorporate the new legislative requirements. The checklist can be found on the Bureau's website at: <http://www.scc.virginia.gov/boi/co/index.aspx>.

In order to expedite and facilitate the review and approval of MCHIP complaint and appeal procedure filings, the Bureau requests that applicable MCHIPs complete and return the checklist with the filing of its new or revised procedures. MCHIPs should provide a red-line identification of the changes made to its procedures. Revised complaint system and appeal procedure filings that comply with this new requirement must be filed with the Bureau by June 3, 2019.

External Review Request Form

The External Review Request Form, Form 216-A, has been updated to allow the covered person to request a standard or expedited external review if an adverse determination involves

treatment of cancer. The revised Form 216-A can be found on the Bureau's website at: http://www.scc.virginia.gov/boi/omb/ext_review.aspx.

Policy Forms

In lieu of carriers filing endorsements to 2019 policy forms, health carriers may use the attached notice to inform policyholders of the external review process change. If a carrier chooses not to use this notice, or if a carrier has already sent a notice, the carrier should submit its sent or intended notice to the Bureau for review and approval. The Bureau will not penalize a carrier for sending a notice without our approval if such notice was sent prior to this Administrative Letter and accurately reflects the new requirements. If a carrier wishes to amend its policy forms instead of using the attached general notice, the carrier must submit the amendment to the Bureau by May 28, 2019, for review and approval.

Please contact the Bureau with any questions or requests for clarification. Questions or clarification regarding the external review process should be addressed to:

Kim Naoroz
Principal Insurance Market Examiner
Office of Independent External Review
Life and Health Division
Bureau of Insurance
P. O. Box 1157
Richmond, Virginia 23218
Telephone: (804) 371-9913
FAX: (804)371-9915
Email Address: Kim.Naoroz@scc.virginia.gov

Questions or clarification regarding complaint system filings should be addressed to:

Todd Bryant
Principal Insurance Market Examiner
Office of the Managed Care Ombudsman
Life and Health Division
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23218
Telephone: (804) 371-9760
FAX: (804)371-9944
Email Address: Todd.Bryant@scc.virginia.gov

Sincerely,



Scott A. White
Commissioner of Insurance

Notice to Policyholder and Dependents of Revision to Your Appeal Process

This Notice Advises You of Expanded Protection to Your Appeal Process due to a Newly Enacted Virginia Law. Keep this Notice with Your Policy Documents.

Effective April 3, 2019, Virginia law requires that should you receive an “adverse determination” from **[name of carrier or the utilization review entity]** involving the treatment of cancer, you are not required to exhaust **[name of carrier’s]** internal appeal process before requesting a standard or expedited independent external review. The notice you receive with an adverse determination will inform you of this right and provide you with necessary information.

“Adverse determination” means a determination by a health carrier or its designee utilization review entity that an admission, availability of care, continued stay, or other health care service that is a covered benefit has been reviewed and, based upon the information provided, does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness, and the requested service or payment for the service is therefore denied, reduced, or terminated.

You can find additional information concerning the appeal and external review process in your policy/certificate. Please direct any questions to:

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