



February 23, 1999

HOUSE BILL No. 1309

DIGEST OF HB 1309 (Updated February 22, 1999 1:57 pm - DI 97)

Citations Affected: IC 27-13.

Synopsis: Health maintenance organization grievances. Requires the department of insurance to establish a grievance procedure for appeal to the department for resolution of grievances related to an adverse utilization review or medical necessity determination made by a health maintenance organization, or an agent of a health maintenance organization, regarding a service proposed by the treating physician. Requires the insurance commissioner to appoint or contract with an independent review organization for review of adverse utilization reviews and medical necessity determinations. Requires the
(Continued next page)

Effective: July 1, 1999.

**Pelath, Crosby, Cheney, Welch,
Becker, Goeglein, Budak, Hasler,
Grubb, Burton, Ulmer, Dailey,
Porter, Bardon**

January 12, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.
February 22, 1999, amended, reported — Do Pass.

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Digest Continued

commissioner to receive and forward the determination of the independent review organization. Provides that the determination is binding on the health maintenance organization. Provides that the costs of the independent review are paid by the health maintenance organization except a \$25 filing fee which is paid by the enrollee who is appealing.

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February 23, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1309

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-13-10-11.1 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1999]: **Sec. 11.1. (a) The department shall**
4 **establish and maintain an external grievance procedure for the**
5 **resolution of grievances regarding an adverse:**
6 (1) **utilization review determination (as defined in**
7 **IC 27-8-17-8); or**
8 (2) **determination of medical necessity;**
9 **made by a health maintenance organization or an agent of a health**
10 **maintenance organization regarding a service proposed by the**
11 **treating physician.**
12 (b) **An external grievance procedure established under**
13 **subsection (a) must:**
14 (1) **allow an enrollee or the enrollee's representative to file**
15 **with the department an appeal of a health maintenance**
16 **organization's grievance resolution under section 7 or 8 of this**
17 **chapter; and**
18 (2) **provide for:**

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1 (A) an expedited appeal for a grievance related to an
2 illness, a disease, a condition, an injury, or a disability that
3 would seriously jeopardize the enrollee's:

4 (i) life or health; or

5 (ii) ability to reach and maintain maximum function; or

6 (B) a standard appeal for a grievance related to a
7 condition:

8 (i) not described in clause (A); and

9 (ii) for which the cost of the proposed service exceeds
10 five hundred dollars (\$500).

11 (c) When filing an appeal of an adverse determination under
12 this section, an enrollee shall submit a twenty-five dollar (\$25)
13 filing fee.

14 (d) The commissioner shall appoint or enter into a contract with
15 an independent review organization that shall assign a medical
16 review professional who is board certified in the applicable
17 specialty for resolution of appeals filed under subsection (b).

18 (e) The independent review organization and the medical review
19 professional may not have a material professional, familial, or
20 financial conflict of interest with any of the following:

21 (1) The health maintenance organization.

22 (2) Any officer, director, or management employee of the
23 health maintenance organization.

24 (3) The physician or the physician's medical group that is
25 proposing the service.

26 (4) The facility at which the service would be provided.

27 (5) The development or manufacture of the principal drug,
28 device, procedure, or other therapy that would be provided to
29 the enrollee whose appeal is under review.

30 However, the medical review professional may have a contractual
31 relationship under which the medical review professional provides
32 health services to enrollees of the health maintenance organization
33 and may have an affiliation that is limited to staff privileges at the
34 health facility.

35 (f) The independent review organization must have a quality
36 assurance mechanism to ensure the:

37 (1) timeliness and quality of reviews performed under this
38 section;

39 (2) qualifications and independence of medical review
40 professionals; and

41 (3) confidentiality of medical records and other review
42 materials.



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1 (g) The medical review professional shall:

2 (1) for an expedited appeal filed under subsection (b)(2)(A),
3 within seventy-two (72) hours of the time the appeal is filed;
4 or

5 (2) for a standard appeal filed under subsection (b)(2)(B),
6 within five (5) business days of the time the appeal is filed;

7 make a determination of appropriateness of the utilization review
8 determination or determination of medical necessity based on
9 information gathered from the enrollee or the enrollee's designee,
10 the health maintenance organization, and the treating physician,
11 and based on any additional information that the medical review
12 professional considers necessary and appropriate. The medical
13 review professional shall submit the findings under this subsection
14 to the commissioner.

15 (h) When making the determination of appropriateness under
16 subsection (g), the medical review professional shall apply:

17 (1) standards of decision making that are based on objective
18 clinical evidence; and

19 (2) the terms of the enrollee's benefit contract.

20 (i) The commissioner shall receive the medical review
21 professional's findings and shall provide them to the enrollee and
22 the health maintenance organization:

23 (1) for an expedited appeal filed under subsection (b)(2)(A)
24 and under rules adopted under this section, within
25 twenty-four (24) hours of receiving the medical review
26 professional's findings; or

27 (2) for a standard appeal filed under subsection (b)(2)(B) and
28 under rules adopted under this section, within seventy-two
29 (72) hours of receiving the medical review professional's
30 findings.

31 (j) The medical review professional's determination under
32 subsection (g) is binding on the health maintenance organization.

33 (k) A health maintenance organization shall provide to each
34 enrollee a copy of the external grievance procedure established
35 under subsection (a).

36 (l) All costs associated with the services of an independent
37 review organization under this section, other than the filing fee
38 paid by an enrollee under subsection (c), must be paid by the health
39 maintenance organization.

40 (m) This chapter does not add to or otherwise change the terms
41 of coverage included in a contract under which an enrollee receives
42 health care benefits under IC 27-13.



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1 (n) Documents and other information created or received by the
2 department in connection with an external review under this
3 chapter are not public records and may not be disclosed under
4 IC 5-14-3.

5 (o) The department shall, not later than June 30, 2000, adopt
6 rules under IC 4-22-2 to implement this section.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1309, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 18.

Delete pages 2 through 4.

Page 5, delete lines 1 through 5.

Page 5, line 15, delete "that conflicts with the prescribing" and insert "**regarding a service proposed by the treating physician.**".

Page 5, delete line 16.

Page 5, line 24, delete "a life" and insert "**an illness, a disease, a condition, an injury, or a disability that would seriously jeopardize the enrollee's:**

(i) life or health; or

(ii) ability to reach and maintain maximum function; or".

Page 5, delete lines 25 through 27

Page 5, line 28, after "condition" insert ":".

Page 5, line 29, before "not" begin a new line triple block indented and insert "**(i)**".

Page 5, line 29, delete "." and insert "; **and**

(ii) for which the cost of the proposed service exceeds five hundred dollars (\$500).".

Page 5, between lines 29 and 30, begin a new paragraph and insert: "**(c) When filing an appeal of an adverse determination under this section, an enrollee shall submit a twenty-five dollar (\$25) filing fee.**".

Page 5, line 30, delete (c) and insert "**(d)**".

Page 5, line 31, before "a medical" insert "**an independent review organization that shall assign**".

Page 5, line 31, delete "a physician licensed under" and insert "**board certified in the applicable specialty**".

Page 5, line 32, delete "IC 25-22.5".

Page 5, between lines 32 and 33, begin a new paragraph and insert: "**(e) The independent review organization and the medical review professional may not have a material professional, familial, or financial conflict of interest with any of the following:**

(1) The health maintenance organization.

(2) Any officer, director, or management employee of the health maintenance organization.

(3) The physician or the physician's medical group that is proposing the service.



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- (4) The facility at which the service would be provided.
- (5) The development or manufacture of the principal drug, device, procedure, or other therapy that would be provided to the enrollee whose appeal is under review.

However, the medical review professional may have a contractual relationship under which the medical review professional provides health services to enrollees of the health maintenance organization and may have an affiliation that is limited to staff privileges at the health facility.

(f) The independent review organization must have a quality assurance mechanism to ensure the:

- (1) timeliness and quality of reviews performed under this section;
- (2) qualifications and independence of medical review professionals; and
- (3) confidentiality of medical records and other review materials."

Page 5, line 33, delete "(d)" and insert "(g)".

Page 5, line 35, delete "twenty four (24)" and insert "**seventy-two (72)**".

Page 5, line 41, delete "complaining party," and insert "**enrollee or the enrollee's designee,**".

Page 5, line 42, delete "prescribing" and insert "**treating**".

Page 6, between lines 4 and 5, begin a new paragraph and insert:

"(h) When making the determination of appropriateness under subsection (g), the medical review professional shall apply:

- (1) standards of decision making that are based on objective clinical evidence; and
- (2) the terms of the enrollee's benefit contract."

Page 6, line 5, delete "(e)" and insert "(i)".

Page 6, line 5, delete "consider" and insert "**receive**".

Page 6, line 6, delete "may:" and insert "**shall provide them to the enrollee and the health maintenance organization:**".

Page 6, line 8, delete "issue an".

Page 6, line 9, delete "emergency order under IC 4-21.5-4".

Page 6, line 9, delete "twenty four" and insert "**twenty-four**".

Page 6, line 12, after "and" insert "**under rules adopted under this section, within seventy-two (72) hours of receiving the medical review professional's findings.**

(j) The medical review professional's determination under subsection (g) is binding on the health maintenance organization."

Page 6, delete lines 13 through 21.



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Page 6, line 22, delete "(h)" and insert "(k)".

Page 6, between lines 24 and 25, begin a new paragraph and insert:

"(l) All costs associated with the services of an independent review organization under this section, other than the filing fee paid by an enrollee under subsection (c), must be paid by the health maintenance organization.

(m) This chapter does not add to or otherwise change the terms of coverage included in a contract under which an enrollee receives health care benefits under IC 27-13.

(n) Documents and other information created or received by the department in connection with an external review under this chapter are not public records and may not be disclosed under IC 5-14-3."

Page 6, line 25, delete "(i)" and insert "(o)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1309 as introduced.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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