

# COMMITTEE REPORT

---

## MR. PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1309, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be **AMENDED** as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 27-13-8-2 (CURRENT VERSION) IS AMENDED  
4 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. (a) In  
5 addition to the report required by section 1 of this chapter, a health  
6 maintenance organization shall each year file with the commissioner  
7 the following:  
8           (1) Audited financial statements of the health maintenance  
9 organization for the preceding calendar year.  
10          (2) A list of participating providers who provide health care  
11 services to enrollees or subscribers of the health maintenance  
12 organization.  
13          (3) A description of the grievance procedure of the health  
14 maintenance organization:  
15           **(A) established under IC 27-13-10, including:**  
16            (i) the total number of grievances handled through the  
17 procedure during the preceding calendar year;

- 1           (ii) a compilation of the causes underlying those grievances;  
 2           and  
 3           (iii) a summary of the final disposition of those grievances;  
 4           **and**  
 5           **(B) established under IC 27-13-10.1, including:**  
 6           **(i) the total number of external grievances handled**  
 7           **through the procedure during the preceding calendar**  
 8           **year;**  
 9           **(ii) a compilation of the causes underlying those**  
 10           **grievances; and**  
 11           **(iii) a summary of the final disposition of those**  
 12           **grievances;**  
 13           **for each independent review organization used by the**  
 14           **health maintenance organization during the reporting**  
 15           **year.**

16           (b) The information required by subsection (a)(2) and (a)(3) must  
 17           be filed with the commissioner on or before March 1 of each year. The  
 18           audited financial statements required by subsection (a)(1) must be filed  
 19           with the commissioner on or before June 1 of each year. The  
 20           commissioner shall:

- 21           (1) make the information required to be filed under this section  
 22           available to the public; and  
 23           (2) prepare an annual compilation of the data required under  
 24           subsection (a)(3) that allows for comparative analysis.

25           (c) The commissioner may require any additional reports as are  
 26           necessary and appropriate for the commissioner to carry out the  
 27           commissioner's duties under this article.

28           SECTION 2. IC 27-13-8-2 (DELAYED VERSION) IS AMENDED  
 29           TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) In  
 30           addition to the report required by section 1 of this chapter, a health  
 31           maintenance organization shall each year file with the commissioner  
 32           the following:

- 33           (1) Audited financial statements of the health maintenance  
 34           organization for the preceding calendar year.  
 35           (2) A list of participating providers who provide health care  
 36           services to enrollees or subscribers of the health maintenance  
 37           organization.  
 38           (3) A description of the grievance procedure of the health

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38

maintenance organization:

**(A) established under IC 27-13-10, including:**

- (i) the total number of grievances handled through the procedure during the preceding calendar year;
  - (ii) a compilation of the causes underlying those grievances; and
  - (iii) a summary of the final disposition of those grievances;
- and**

**(B) established under IC 27-13-10.1, including:**

- (i) the total number of external grievances handled through the procedure during the preceding calendar year;**
- (ii) a compilation of the causes underlying those grievances; and**
- (iii) a summary of the final disposition of those grievances;**

**for each independent review organization used by the health maintenance organization during the reporting year.**

(4) The percentage of providers credentialed by the health maintenance organization according to the most current standards or guidelines, if any, developed by the National Committee on Quality Assurance or a successor organization.

(5) The health maintenance organization's Health Plan Employer Data and Information Set (HEDIS) data.

(b) The information required by subsection (a)(2) through (a)(4) must be filed with the commissioner on or before March 1 of each year. The audited financial statements required by subsection (a)(1) must be filed with the commissioner on or before June 1 of each year. The health maintenance organization's HEDIS data required by subsection (a)(5) must be filed with the commissioner on or before July 1 of each year. The commissioner shall:

- (1) make the information required to be filed under this section available to the public; and
- (2) prepare an annual compilation of the data required under subsection (a)(3) through (a)(5) that allows for comparative analysis.

(c) The commissioner may require any additional reports as are

1 necessary and appropriate for the commissioner to carry out the  
2 commissioner's duties under this article.

3 SECTION 3. IC 27-13-9-4 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. A health  
5 maintenance organization shall provide to each enrollee and subscriber:

- 6 (1) information on:
- 7 (A) how services can be obtained;
  - 8 (B) where additional information on access to services can be  
9 obtained;
  - 10 (C) how to file a grievance under IC 27-13-10 **and**  
11 **IC 27-13-10.1;**
  - 12 (D) the health maintenance organization's:
    - 13 (I) structure;
    - 14 (ii) health care benefits and exclusions; and
    - 15 (iii) criteria for denying coverage; and
  - 16 (E) costs for which the enrollee or subscriber is responsible;
  - 17 and
  - 18 (2) a toll free telephone number through which the enrollee can  
19 contact the health maintenance organization at no cost to the  
20 enrollee to obtain information and to file grievances.

21 The information under this section must be provided to a potential  
22 enrollee of the health maintenance organization upon request.

23 SECTION 4. IC 27-13-10-4 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A health  
25 maintenance organization shall provide timely, adequate, and  
26 appropriate notice to each enrollee or subscriber of the grievance  
27 procedure under this chapter **and IC 27-13-10.1.**

28 (b) A health maintenance organization shall prominently display on  
29 all notices to enrollees and subscribers the telephone number and  
30 address at which a grievance may be filed.

31 (c) A written description of the enrollee's or subscriber's right to file  
32 a grievance must be posted by the provider in a conspicuous public  
33 location in each facility that offers services on behalf of a health  
34 maintenance organization.

35 SECTION 5. IC 27-13-10-8 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) A health  
37 maintenance organization shall establish written policies and  
38 procedures for the timely resolution of appeals of grievance decisions.

1 The procedures for registering and responding to oral and written  
2 appeals of grievance decisions must include the following:

- 3 (1) Acknowledgment of the appeal, orally or in writing, within  
4 three (3) business days after receipt of the appeal being filed.
- 5 (2) Documentation of the substance of the appeal and the actions  
6 taken.
- 7 (3) Investigation of the substance of the appeal, including any  
8 aspects of clinical care involved.
- 9 (4) Notification to enrollees or subscribers of the disposition of  
10 the appeal and that the enrollee or subscriber may have the right  
11 to further remedies allowed by law.
- 12 (5) Standards for timeliness in responding to appeals and  
13 providing notice to enrollees or subscribers of the disposition of  
14 the appeal and the right to initiate an external appeals process that  
15 accommodate the clinical urgency of the situation.

16 (b) The health maintenance organization shall appoint a panel of  
17 qualified individuals to resolve an appeal. An individual may not be  
18 appointed to the panel who has been involved in the matter giving rise  
19 to the complaint or in the initial investigation of the complaint. Except  
20 for grievances that have previously been appealed under IC 27-8-17, in  
21 the case of an appeal from the proposal, refusal, or delivery of a health  
22 care procedure, treatment, or service, the health maintenance  
23 organization shall appoint one (1) or more individuals to the panel to  
24 resolve the appeal. The panel must include one (1) or more individuals  
25 who:

- 26 (1) have knowledge in the medical condition, procedure, or  
27 treatment at issue;
- 28 (2) are in the same licensed profession as the provider who  
29 proposed, refused, or delivered the health care procedure,  
30 treatment, or service;
- 31 (3) are not involved in the matter giving rise to the appeal or the  
32 previous grievance process; and
- 33 (4) do not have a direct business relationship with the enrollee or  
34 the health care provider who previously recommended the health  
35 care procedure, treatment, or service giving rise to the grievance.

36 (c) An appeal of a grievance decision must be resolved as  
37 expeditiously as possible and with regard to the clinical urgency of the  
38 appeal. However, an appeal must be resolved not later than forty-five

1 (45) days after the appeal is filed.

2 (d) A health maintenance organization shall allow enrollees and  
3 subscribers the opportunity to appear in person at the panel or to  
4 communicate with the panel through appropriate other means if the  
5 enrollee or subscriber is unable to appear in person.

6 (e) A health maintenance organization shall notify the enrollee or  
7 subscriber in writing of the resolution of the appeal of a grievance  
8 within five (5) business days after completing the investigation. The  
9 grievance resolution notice must contain the following:

10 (1) The decision reached by the health maintenance organization.

11 (2) The reasons, policies, or procedures that are the basis of the  
12 decision.

13 (3) Notice of the enrollee's or subscriber's right to further  
14 remedies allowed by law, **including the right to review by an**  
15 **independent review organization under IC 27-13-10.1.**

16 (4) The department, address, and telephone number through  
17 which an enrollee may contact a qualified representative to obtain  
18 more information about the decision or the right to an appeal."

19 Page 1, line 1, delete "IC 27-13-10-11.1" and insert "IC 27-13-10.1".

20 Page 1, line 2, delete "SECTION" and insert "CHAPTER".

21 Page 1, line 3, delete "Sec. 11.1. (a) The department", begin a new  
22 paragraph and insert:

23 **"Chapter 10.1. External Review of Grievances**

24 **Sec. 1. A health maintenance organization".**

25 Page 1, line 5, delete "an adverse"

26 Page 1, line 6, after "(1)" insert "**an adverse**".

27 Page 1, line 7, delete "or".

28 Page 1, line 8, after "(2)" insert "**an adverse**".

29 Page 1, line 8, after ";" insert "**or**".

30 Page 1, between lines 8 and 9, begin a new line block indented and  
31 insert:

32 **"(3) a determination that a proposed service is experimental**  
33 **or investigational;".**

34 Page 1, delete lines 12 through 18, begin a new paragraph and  
35 insert:

36 **"Sec. 2. (a) An external grievance procedure established under**  
37 **section 1 of this chapter must:**

1           **(1) allow an enrollee or the enrollee's representative to file a**  
 2           **written request with the health maintenance organization for**  
 3           **an appeal of the health maintenance organization's grievance**  
 4           **resolution under IC 27-13-10-8 not later than forty-five (45)**  
 5           **days after the enrollee is notified of the resolution under**  
 6           **IC 27-13-10-8; and**

7           **(2) provide for:**

8               **(A) an expedited appeal for a grievance related to an**  
 9               **illness, a disease, a condition, an injury, or a disability that**  
 10              **would seriously jeopardize the enrollee's:**

11                   **(i) life or health; or**

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

13               **(B) a standard appeal for a grievance not described in**  
 14               **clause (A).**

15           **An enrollee may file not more than one (1) appeal of a health**  
 16           **maintenance organization's grievance resolution.**

17           **(b) When a request is filed under subsection (a), the health**  
 18           **maintenance organization shall select:**

19               **(1) an independent review organization from the list of**  
 20               **independent review organizations that are certified by the**  
 21               **department under section 8 of this chapter; and**

22               **(2) a different independent review organization for each**  
 23               **appeal filed under this chapter on a rotational basis;**

24           **in compliance with the requirements of subsection (d).**

25           **(c) The independent review organization shall assign a medical**  
 26           **review professional who is board certified in the applicable**  
 27           **specialty for resolution of an appeal.**

28           **(d) The independent review organization and the medical review**  
 29           **professional conducting the external review under this chapter**  
 30           **may not have a material professional, familial, or financial conflict**  
 31           **of interest with any of the following:**

32               **(1) The health maintenance organization.**

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

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

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

38               **(5) The development or manufacture of the principal drug,**

1           device, procedure, or other therapy that is proposed by the  
2           treating physician.

3           However, the medical review professional may have a contractual  
4           relationship under which the medical review professional provides  
5           health care services to enrollees of the health maintenance  
6           organization and may have an affiliation that is limited to staff  
7           privileges at the health facility if the relationship or affiliation is  
8           disclosed to the enrollee and the health maintenance organization.

9           (e) The enrollee may be required to pay not more than  
10          twenty-five dollars (\$25) of the costs associated with the services of  
11          an independent review organization under this chapter. All  
12          additional costs must be paid by the health maintenance  
13          organization.

14          Sec. 3. (a) An enrollee who files an appeal under this chapter  
15          shall:

16               (1) not be subject to retaliation for exercising the enrollee's  
17               right to an appeal under this chapter;

18               (2) be permitted to utilize the assistance of other individuals,  
19               including physicians, attorneys, friends, and family members  
20               throughout the review process;

21               (3) be permitted to submit additional information relating to  
22               the proposed service throughout the review process; and

23               (4) cooperate with the independent review organization by:

24                       (A) providing any requested medical information; or

25                       (B) authorizing the release of necessary medical  
26                       information.

27          (b) A health maintenance organization shall cooperate with an  
28          independent review organization selected under section 2 of this  
29          chapter by promptly providing any information requested by the  
30          independent review organization.

31          Sec. 4. (a) An independent review organization shall:

32               (1) for an expedited appeal filed under section 2(a)(2)(A) of  
33               this chapter, within seventy-two (72) hours after the appeal is  
34               filed; or

35               (2) for a standard appeal filed under section 2(a)(2)(B) of this  
36               chapter, within fifteen (15) business days after the appeal is  
37               filed;

38          make a determination to uphold or reverse the health maintenance

1 organization's grievance resolution under IC 27-13-10-8 based on  
 2 information gathered from the enrollee or the enrollee's designee,  
 3 the health maintenance organization, and the treating physician,  
 4 and any additional information that the independent review  
 5 organization considers necessary and appropriate.

6 (b) When making the determination under this section, the  
 7 independent review organization shall apply:

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

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

11 (c) The independent review organization shall notify the health  
 12 maintenance organization, the enrollee, and the department of the  
 13 determination made under this section:

14 (1) for an expedited appeal filed under section 2(a)(2)(A) of  
 15 this chapter, within twenty-four (24) hours after making the  
 16 determination; or

17 (2) for a standard appeal filed under section 2(a)(2)(B) of this  
 18 chapter, within seventy-two (72) hours after making the  
 19 determination.

20 **Sec. 5. A determination made under section 4 of this chapter is**  
 21 **binding on the health maintenance organization. However, the**  
 22 **enrollee may pursue any additional remedies in an appropriate**  
 23 **court of law.**

24 **Sec. 6. (a) If at any time during an external review performed**  
 25 **under this chapter, the enrollee obtains new information not**  
 26 **considered by the health maintenance organization under**  
 27 **IC 27-13-10:**

28 (1) the enrollee shall submit the information to the health  
 29 maintenance organization for reconsideration of the health  
 30 maintenance organization's resolution under IC 27-13-10-8;  
 31 and

32 (2) the independent review organization shall cease the  
 33 external review process until the reconsideration under  
 34 subsection (b) is completed.

35 (b) A health maintenance organization to which information is  
 36 submitted under subsection (a) shall reconsider the resolution  
 37 under IC 27-13-10-8 based on the information and notify the  
 38 enrollee of the health maintenance organization's decision:

1           **(1) within seventy-two (72) hours after the information is**  
 2           **submitted for a reconsideration related to an illness, a disease,**  
 3           **a condition, an injury, or a disability that would seriously**  
 4           **jeopardize the enrollee's:**

5               **(A) life or health; or**

6               **(B) ability to reach and maintain maximum function; or**

7           **(2) within fifteen (15) days after the information is submitted**  
 8           **for a reconsideration not described in subdivision (1).**

9           **(c) If the decision reached under subsection (b) is adverse to the**  
 10          **enrollee, the enrollee may request that the independent review**  
 11          **organization resume the external review under this chapter.**

12          **Sec. 7. This chapter does not add to or otherwise change the**  
 13          **terms of coverage included in a contract under which an enrollee**  
 14          **receives health care benefits under IC 27-13.**

15          **Sec. 8. (a) The department shall establish and maintain a**  
 16          **process for annual certification of independent review**  
 17          **organizations.**

18          **(b) The department may have a sufficient number of**  
 19          **independent review organizations certified at any one (1) time as**  
 20          **determined by the department.**

21          **(c) An independent review organization shall meet the following**  
 22          **minimum requirements for certification by the department:**

23               **(1) Medical review professionals assigned by the independent**  
 24               **review organization to perform external grievance reviews**  
 25               **under this chapter:**

26                   **(A) must be board certified in the specialty in which an**  
 27                   **enrollee's proposed service would be provided;**

28                   **(B) must be knowledgeable about a proposed service**  
 29                   **through actual clinical experience;**

30                   **(C) must hold an unlimited license to practice in a state of**  
 31                   **the United States; and**

32                   **(D) must have no history of disciplinary actions or**  
 33                   **sanctions including:**

34                       **(i) loss of staff privileges; or**

35                       **(ii) restriction on participation;**

36                   **taken or pending by any hospital, government, or**  
 37                   **regulatory body.**

38               **(2) The independent review organization must have a quality**

- 1 assurance mechanism to ensure the:
- 2 (A) timeliness and quality of reviews;
- 3 (B) qualifications and independence of medical review
- 4 professionals;
- 5 (C) confidentiality of medical records and other review
- 6 materials; and
- 7 (D) satisfaction of enrollees with the procedures utilized by
- 8 the independent review organization, including the use of
- 9 enrollee satisfaction surveys.
- 10 (3) The independent review organization must file with the
- 11 department the following information before March 1 of each
- 12 year:
- 13 (A) The number and percentage of determinations made in
- 14 favor of enrollees.
- 15 (B) The number and percentage of determinations made in
- 16 favor of health maintenance organizations.
- 17 (C) The average time to process a determination.
- 18 (D) Any other information required by the department.
- 19 The information required under this subdivision must be
- 20 specified for each health maintenance organization for which
- 21 the independent review organization performed reviews
- 22 during the reporting year.
- 23 (4) Any additional requirements established by the
- 24 department.
- 25 (d) The department may not certify an independent review
- 26 organization that is one (1) of the following:
- 27 (1) A professional or trade association of health care
- 28 providers, or a subsidiary of a professional or trade
- 29 association of health care providers.
- 30 (2) A health insurer or health plan association, or a subsidiary
- 31 of a health insurer or health plan association.
- 32 (e) The department may suspend or revoke an independent
- 33 review organization's certification if the department finds that the
- 34 independent review organization is not in substantial compliance
- 35 with the certification requirements under this section.
- 36 (f) The department shall make available to health maintenance
- 37 organizations a list of all certified independent review
- 38 organizations.

1           (g) The department shall make the information provided to the  
2 department under subdivision (c)(3) available to the public in a  
3 format that does not identify individual enrollees.

4           **Sec. 9.** Except as provided in section 8(g) of this chapter,  
5 documents and other information created or received by the  
6 independent review organization, the medical review professional,  
7 or the department in connection with an external review under this  
8 chapter:

9           (1) are not public records;

10          (2) may not be disclosed under IC 5-14-3; and

11          (3) must be treated in accordance with confidentiality  
12 requirements of state and federal law.

13           **Sec. 10. (a)** An independent review organization is immune from  
14 civil liability for actions taken in good faith in connection with an  
15 external review under this chapter.

16           **(b)** A health maintenance organization is immune from civil  
17 liability for actions taken in good faith in connection with a  
18 determination under this chapter that reverses the health  
19 maintenance organization's resolution under IC 27-13-10.

20           **Sec. 11.** If an enrollee has the right to an external review under  
21 Medicare (42 U.S.C. 1395 et seq.) the enrollee may not request an  
22 external review under this chapter.

23           **Sec. 12.** The department may adopt rules under IC 4-22-2 to  
24 implement this chapter.

25           SECTION 6. IC 34-30-2-119.5 IS ADDED TO THE INDIANA  
26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 1999]: **Sec. 119.5. IC 27-13-10.1 (Concerning**  
28 **health maintenance organizations and independent review**  
29 **organizations.)**

30           SECTION 7. [EFFECTIVE JULY 1, 1999] **(a) IC 27-13-8-2, as**  
31 **amended by this act, applies to external grievances filed by**  
32 **enrollees after January 1, 2000.**

33           **(b) IC 27-13-10.1, as added by this act, applies to grievances**

- 1 **filed under IC 27-13-10-5 after January 1, 2000."**
- 2 Delete pages 2 through 4.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1309 as reprinted March 2, 1999.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 10, Nays 0.

---

**Senator Miller, Chairperson**