

CHAPTER 226
FORMERLY
SENATE BILL NO. 153
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INDEPENDENT HEALTH CARE APPEALS PROGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §6416(b), (c) and (e) of Chapter 64, Title 18, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b) The appeal review shall include any decisions regarding covered benefits by the covered person's health benefits plan, and any determination by the IURO shall be binding on the health carriers. If the IURO makes a determination in favor of the carrier, it will give rise to a rebuttable presumption to that effect in any subsequent action brought by or on behalf of the covered person with respect to the decision. Should the determination favor the covered person, the health carrier shall have the ability to appeal the issue to Superior Court. ~~The outcome of that appeal shall have no effect on the determination already made by the IURO.~~ In any such instance in which an appeal is taken to the Superior Court, that court shall, upon receiving notice of the appeal, appoint an independent attorney to defend the determination from which the appeal is taken. The expenses of the appeal to the Superior Court, including the assessment of attorney fees for the attorney appointed by the court, shall be assessed by the court against the health carrier. This act will affect "health carriers," defined as any entity subject to insurance laws and regulations of the State. ~~For the purpose of this act, "health carriers" shall be treated as "managed care organizations" as defined in § 6403 of this title.~~

(c) A covered person may apply to the Independent Health Appeals Program for a review of any decision to deny, reduce or terminate covered benefits if the person has already completed the carrier's internal appeals process and the person contests the final decision by a carrier. ~~Within 60 days~~ four months of the date the final decision was issued by the carrier, a covered person or the covered person's authorized representative may file a request for an external review with the health carrier. Upon receipt of a request for an external review, the health carrier shall send an electronic copy of the request to the Department.

(e) Within 7 calendar days after the date on which the health carrier receives notice of the IURO assigned, the health carrier shall provide to the assigned IURO all documents and information utilized in making the final decision to deny, reduce or terminate benefits, as well as the final written decision from ~~the Stage 2~~ internal appeal.

Section 2. Amend § 6420 of Chapter 64, Title 18, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

The Insurance Commissioner shall enforce the provisions of this chapter. ~~By January 6, 2007, the~~ The Insurance Commissioner shall adopt rules and regulations, pursuant to the Administrative Procedure Act [Chapter 101 of Title 29], necessary to carry out the purposes of this chapter. The regulations shall establish procedures for protections defined in this chapter.

Section 3. Amend §332(c)(8), Title 18, of the Delaware Code by making insertions as shown by underlining as follows:

8) Manner of notice of decisions. -- Written notice of the review decision shall be deposited in the mail, addressed to the last known address of the covered person. In the case of emergency reviews, the carrier shall also make reasonable efforts to notify the covered person immediately following the determination of the grievance and the written notice of determination shall be deposited in the mail, addressed to the last known address of the claimant, within 48 hours after the receipt of all information necessary to complete the review. For cases involving a denial, reduction or termination of benefits where the external review may be conducted pursuant to this section, written notice shall be mailed requesting Delivery Confirmation by the United State Postal Service.

Section 4. The provisions of this act shall be of no force or effect if The Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, is declared unconstitutional by the Supreme Court of the United States.

Approved April 19, 2012