

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 103—Utilization Review Organizations and Independent Review Organizations (LAC 37:XIII.Chapter 62)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 103—Utilization Review Organizations and Independent Review Organizations. The purpose of the amendment to Regulation 103 is to provide the requirements for incomplete requests for external review as provided in Act 81 of the 2022 Regular Session of the Louisiana Legislature and to make technical changes.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 62. Regulation Number 103—Utilization Review Organizations and Independent Review Organizations

§6209. Requesting an External Review

A. All requests for external review must be made by the health insurance issuer through the IRO review request module, which can be accessed via the industry access link on the LDI's website: www.ldi.la.gov. When a covered person or his authorized representative requests an external review, the health insurance issuer shall notify the LDI by entering this request via the link. The request must be entered even if the health insurance issuer determines the request is ineligible for review.

B. If the covered person or his authorized representative requests an external review, but the health insurance issuer determines that the request is not complete, the health insurance issuer shall notify the LDI through the IRO review request module described in §6209.A by completing the field indicating that the covered person's or his authorized representative's request is incomplete and stating with specificity the information or materials needed to make the request complete. Such notice shall be provided to the LDI within five business days following the date of receipt of the external review request from the covered person or his authorized representative pursuant to R.S. 22:2436.

C. If the covered person or his authorized representative requests an external review, but the ~~insurer~~ health insurance issuer denies the request as being ineligible pursuant to R.S. 22:2436(B), the covered person or his authorized representative may appeal in writing to the commissioner. The health insurance issuer and the covered person or his authorized representative both may submit additional documentation, such as the policy to verify coverage limitations as well as dates of coverage, documentation of service dates, etc., to help establish why the denial should be upheld or reversed. However, no medical or protected health information should be submitted to the commissioner for this review, unless such information is determinative of the issue in the appeal.

D. Upon receipt of an appeal of a health insurance issuer's eligibility determination, the LDI may contact the health insurance issuer's designated contact to request additional information, if necessary. Therefore, all health

insurance issuers should ensure that the designated contact's information is regularly updated in the industry access portal, as all electronic communications, including assignment of a case to an IRO, reporting of an IRO's external review results, reporting of the commissioner's decision on eligibility for an external review, etc., will be sent automatically to the designated contact of record that is on file with the LDI.

E. To facilitate notice of the right to appeal a determination of ineligibility to the commissioner, the health insurance issuer shall include the reason for ineligibility, as well as the following language (or language that is substantially similar), in its notice to the covered person:

“[Name of health insurance issuer] has determined that your request for an independent external review of your adverse determination does not meet the eligibility requirements for independent external reviews because [reason]. However, [name of health insurance issuer]'s determination that you are ineligible for an external review may be appealed to the Commissioner of Insurance, who has the authority to reverse [name of health insurance issuer]'s decision and order an independent external review of your adverse determination. If you wish to appeal this decision, you should go to the following website: <https://ldi.la.gov/OnlineServices/IROConsumerAppeals>.

Once you access the website, enter your last name and case number where instructed. Following verification of your name and case number, you will be able to enter the reasons you believe your adverse determination should be eligible for an independent external review. If you have questions or if you or your authorized representative is unable to access the website, you may contact the Louisiana Department of Insurance by email at ConsumerAppeals@ldi.la.gov or by telephone at (225) 342-1355. Your case number is _____.”

1. Health insurance issuers must also upload a copy of the adverse determination letter when reporting external review requests that have been deemed ineligible.

F. If the covered person or his authorized representative requests an external review and the health insurance issuer does not deny the request as being ineligible or if the commissioner reverses a request that the health insurance issuer had deemed ineligible for external review, the health insurance issuer must submit the request to the LDI for assignment of an external review by using the IRO review request form which can be located on the LDI website, www.ldi.la.gov via the industry access portal.

G. When completing the IRO review request form, the health insurance issuer must enter the following information:

1. covered person's name;
2. covered person's contact information (address, telephone, email address, fax);
3. name of covered person's authorized representative (if applicable);
4. authorized representative's contact information (if applicable);
5. policy/contract number;
6. name of primary care doctor or specialist;
7. type of specialty;
8. type of appeal requested: medical, rescission or experimental;

9. type of appeal requested: standard or expedited;
10. result of request: eligible or ineligible.

H. Once the case has been assigned, neither the covered person nor the health insurance issuer may request the case be reassigned to another IRO, as all IRO assignments are final, unless reassignment is necessary pursuant to §6211.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2436 and R.S. 22:2452.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 41:2174 (October 2015), amended LR

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.
2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.
3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.
4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.
5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.
6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.
2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.
3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.
4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.
5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., February 9, 2023.

James J. Donelon
Commissioner

Fiscal and Economic Impact Statement

1. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to amend the requirements for incomplete requests for external review as provided in Act 81 of the 2022 Regular Session of the Louisiana Legislature.

2. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will have no impact on state or local governmental revenues.

3. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS. (Summary)

The proposed rule is being amended to provide for the requirements for incomplete requests for external review as provided for in Act 81 of the 2022 Regular Legislative Session. This will better clarify the process of requesting an external review of Utilization and Independent Review Organizations.

4. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rule will have no impact upon competition and employment in the state.
