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Bill Analysis

Legislative Service Commission

H.B. 151

123rd General Assembly
(As Introduced)

Reps. Mottley, Opfer, D. Miller, Jerse, Terwilleger, Bender, Allen, Ford, O'Brien

BILL SUMMARY

- Authorizes the Director of Health to adopt rules relative to appeals made by health insuring corporation enrollees in connection with denials or reductions of health care coverage.
- Authorizes the Director of Health to adopt rules relative to the operation of the independent review process established to examine coverage decisions made in connection with certain health insuring corporation enrollees with terminal conditions.
- Authorizes the Superintendent of Insurance to adopt rules relative to policyholder appeals of denials or reductions of health care coverage under the Sickness and Accident Insurance Law.

CONTENT AND OPERATION

Rule-making authority granted to the Director of Health

Appeals of adverse determinations rendered under the utilization review provisions of the Health Insuring Corporation Law

(sec. 1751.82(E))

Provisions of the Health Insuring Corporation Law regulate the conduct of utilization review by health insuring corporations. Utilization review is the process used to monitor the use of, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of, health care services, procedures, or settings (sec. 1751.77(N)). The Utilization Review Law, sections 1751.77 to 1751.86 of the Revised Code, applies to health insuring corporations that provide or perform utilization review services in connection with policies, contracts, and

agreements providing basic health care services. The law requires a health insuring corporation to maintain written procedures for making utilization review determinations and for notifying enrollees, and providers and health care facilities acting on behalf of enrollees, of these determinations. Such a determination may be an "adverse determination," which is a determination by the health insuring corporation or its designee that an admission, availability of care, continued stay, or other health care service does not meet the health insuring corporation's requirements for benefit payment. Division (G) of section 1751.81 of the Revised Code requires that the written notification of an adverse determination provided to an enrollee, provider, or health care facility, include instructions for initiating an appeal of the determination. Section 1751.82 of the Revised Code also provides for an appeal of an adverse determination. The Revised Code, however, does not currently regulate the nature of an appeal of an adverse determination.

The bill amends section 1751.82 of the Revised Code, authorizing the Director of Health to adopt rules, in accordance with the Administrative Procedure Act, Chapter 119. of the Revised Code, as the Director considers to be necessary and advisable for the purpose of regulating appeals of adverse determinations made under the Utilization Review Law. The bill provides that the Director may, pursuant to this grant of authority, adopt rules (1) setting time limits for the filing of an appeal and for the rendering of a decision on an appeal, (2) establishing which persons are to hear an appeal, which may include persons independent of the health insuring corporation and the enrollee, (3) establishing reimbursement levels for the work performed by the persons hearing an appeal, and (4) setting a filing fee, related to the average cost of an appeal, for the filing of an appeal by an enrollee, provider, or health care facility, which filing fee is to be forfeited if the appeal is lost.

Under current law, section 1751.48 of the Revised Code, the Superintendent of Insurance is authorized to adopt rules as are necessary to carry out the provisions of the Health Insuring Corporation Law. This section also authorizes the Director of Health to make recommendations to the Superintendent for rules necessary to enable the Director to carry out the Director's responsibilities under the Health Insuring Corporation Law. However, while the Superintendent is required to consider the Director's recommendations when adopting any rules pertaining to the Director's responsibilities, this section currently does not grant the Director any individual authority to adopt rules in connection with the Health Insuring Corporation Law.

The bill specifies that the rule-making authority it grants to the Director of Health in connection with the appeal of adverse determinations made under the

Utilization Review Law is not limited by the language found in section 1751.48 of the Revised Code.

Independent review of experimental or investigational treatments for terminal conditions

(sec. 1753.24)

Current law requires each health insuring corporation to establish a reasonable, external, independent review process to examine its coverage decisions for certain enrollees with terminal conditions. The law applies if (1) the terminal condition has a high probability of causing an enrollee's death within two years, (2) standard therapies have not been effective or are not medically appropriate for the enrollee, (3) the enrollee's physician has recommended a drug, device, procedure, or other therapy that the physician believes is likely to be more beneficial to the enrollee than standard therapies, (4) the enrollee has been denied coverage for the drug, device, procedure, or other therapy recommended, and (5) the drug, device, procedure, or other therapy recommended would be covered except for the health insuring corporation's determination that it is experimental or investigational. The law requires that the independent review process established by a health insuring corporation operate in accordance with a list of criteria; one criterion, for example, regulates the health insuring corporation's disclosure of medical records to a terminally ill enrollee or the enrollee's physician.

The bill amends this law, providing the Director of Health with the authority to adopt, in accordance with the Administrative Procedure Act, those rules that the Director considers to be necessary and advisable for the purpose of implementing any of the criteria set forth for the operation of this independent review process.

The bill also gives the Director the authority to order a review of a nonstandard drug, device, procedure, or other therapy that has been the subject of multiple examinations under the independent review process. In conducting such a review, the Director is required to retain experts to assist who are knowledgeable about the nonstandard drug, device, procedure, or other therapy. The experts retained are required to file a written recommendation with the Director, based upon their review of all available evidence, as to the effectiveness and safety of the drug, device, procedure, or other therapy in treating a terminal condition, which usage the health insuring corporation had determined to be experimental or investigational in prior examinations under the independent review process. Based upon this review, the Director is authorized to adopt a rule, in accordance with the Administrative Procedure Act, establishing that the drug, device, procedure, or other therapy is to be considered to be a standard therapy for the treatment of

certain terminal conditions and is thereafter to be covered by health insuring corporations consistent with the terms of a subscriber's policy, contract, or agreement.

Rule-making authority granted to the Superintendent of Insurance

Appeals of denials or reductions of coverage claimed under a policy of sickness and accident insurance

(sec. 3901.045)

The bill authorizes the Superintendent of Insurance to adopt rules, in accordance with the Administrative Procedure Act, that the Superintendent considers necessary and advisable for the purpose of regulating policyholder appeals of denials or reductions of coverage claimed under a policy of sickness and accident insurance. The bill requires the Superintendent to take into consideration, in determining the necessity and advisability of such rules, any similar rules adopted by the Director of Health pursuant to the authority granted to the Director by the other provisions of this bill.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-99	p. 170

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