



October 2014

WEST VIRGINIA INFORMATIONAL LETTER

NO. 190

TO: All Insurance Companies Authorized to Sell Health Insurance Plans in West Virginia

RE: W. Va. Code of St. R. 114-95 – Utilization Review and Benefit Determination

W. Va. Code of St. R. 114-96 – Health Plan Issuer Internal Grievance Procedure

W. Va. Code of St. R. 114-97 – External Review of Issuers' Adverse Health Insurance Determinations

As required by the federal Patient Protection and Affordable Care Act (Publ. Law 111-148) and the Health Care and Education Reconciliation Act (Publ. Law 111-152), the United States Department of Health and Human Services released Interim Final Regulations, 45 C.F.R. § 147.136 (“Regulation”), defining the requirements for internal claims, internal appeals and external review process of health plan issuers.

Paragraph (c) of the Regulation provides:

If a State external review process that applies to and is binding on a health insurance issuer offering group or individual health insurance coverage includes at a minimum the consumer protections in the NAIC Uniform Model Act, then the issuer must comply with the applicable State external review process and is not required to comply with the Federal external review process[.]

West Virginia addressed this aspect of the Regulation with the enactment of W. Va. Code § 33-16H-1 *et seq.* and the subsequent promulgation of W. Va. Code of St. R. 114-97 (“Series 97”). Series 97 mirrors the “Uniform Health Carrier External Review Model Act” adopted by the National Association of Insurance Commissioners (“NAIC”).

The NAIC further recommended that states adopting the External Review Model Act also enact the models for utilization review (pertaining to how coverage decisions are reached by issuers) and internal grievance (pertaining to how issuers internally resolve policyholder appeals of adverse determinations). Thus, West Virginia respectively promulgated W. Va. Code of St. R. 114-95 (“Series 95”) and W. Va. Code of St. R. 114-96 (“Series 96”).



Issuers must be prepared to implement the requirements of Series 95, Series 96 and Series 97 with respect to health plans issued or renewed on or after **January 1, 2015**. Failure to do so may result in penalties prescribed in W. Va. Code § 33-3-11.

Series 96 and Series 97 contain several provisions requiring issuers to use certain forms prescribed by the Offices of the Insurance Commissioner (“OIC”), as well as instructing the OIC to review and approve, if appropriate, the eligibility of Independent Review Organizations (“IROs”) that apply for assignment to conduct external reviews. Health plan issuers and IROs should contact the Health Policy Division of the OIC to obtain applicable forms. The Health Policy Division may be contacted in the following ways:

- By mail: West Virginia Offices of the Insurance Commissioner
ATTN: Health Policy Division
P.O. Box 50540
Charleston, WV 25305-0540
- By phone: 304-558-6279 Ext. 1264
- By fax: 304-558-0138
- By email: Health.Policy@wvinsurance.gov

Please e-mail any questions concerning this Informational Letter to Informational.Letters@wvinsurance.gov or call (304) 558-0401.



Michael D. Riley
Insurance Commissioner