



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

CONSUMER PROTECTION SERVICES

OFFICE OF MANAGED CARE

PO BOX 329

TRENTON, NJ 08625-0329

TEL (609) 292-7272

FAX (609) 633-0807

PHIL MURPHY
Governor

MARLENE CARIDE
Commissioner

SHEILA OLIVER
Lt. Governor

SEMI-ANNUAL LEGISLATIVE REPORT INDEPENDENT HEALTH CARE APPEALS PROGRAM DEPARTMENT OF BANKING AND INSURANCE

This is the semi-annual report to the Legislature on activities related to the Independent Health Care Appeals Program from January 1, 2020 through June 30, 2020.

The Health Care Quality Act established the Independent Health Care Appeals Program to provide covered persons with the right to appeal to an independent utilization review organization (IURO) a carrier's denial, limitation or termination of a covered service on the grounds that it is not medically necessary. The overturn of a carrier's denial signifies that the IURO determined, after a review of all medical information submitted by the carrier and the covered person, that the services requested for the covered person were medically necessary and appropriate and should therefore be covered by the carrier. If all or part of the IURO's decision is in favor of the covered person, the carrier is required to provide coverage for the healthcare services found by the IURO to be medically necessary covered services within ten business days. The IURO's decision is binding on the carrier and the covered person, except if other remedies are available under state or federal law. The New Jersey Department of Banking and Insurance (Department) administers the Independent Health Care Appeals Program and currently contracts with two IUROs to conduct the appeal reviews.

One thousand one hundred ninety-six (1,196) external appeals were filed with the Department's Office of Managed Care during the time period of this report. Of the 1,196 appeals, 1,080 were accepted for review by the IUROs. Appeals determined to be ineligible for the Independent Health Care Appeals Program were rejected for the following reasons: failure to exhaust the carrier's internal appeal process; not a utilization management (UM) issue; member is covered by self-funded plan; fair hearing request; failure to provide signed consent to appeal; issue already resolved; out of state coverage; appeal untimely; and the appeal involves a non-covered benefit.

The IUROs rendered decisions on 1,058 appeals during this period. Of the 1,058 appeals, the IURO upheld the carrier's denial 532 times (50.3%) and overturned or modified the carrier's denial 526 times (49.7%). In the previous 6-month period, July 1, 2019 through December 31, 2019, the IURO rendered decisions on 1,104 appeals. The carrier's denial was upheld in 54% of the cases and overturned or modified in 46% of the cases.

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The appeals involved various types of medical service denials as shown below:

January 1, 2020 – June 30, 2020

| Category | Total |
|-------------------------------------------------|--------------|
| Covered Medication | 87 |
| Hospital Admission, Days, Reduction of Acuity | 462 |
| Outpatient Medical Treatment/Diagnostic Testing | 32 |
| Skilled Nursing Facility | 18 |
| Dental - Medicaid | 60 |
| Home Health Care | 1 |
| Medical Equipment (DME) and/or Supplies | 31 |
| Surgical Procedure | 30 |
| Service Experimental/Investigational | 8 |
| Outpatient Rehab Therapy (PT, OT, Cardio, etc.) | 20 |
| Inpatient Behavioral Health Treatment | 21 |
| In-Network Exception | 5 |
| Outpatient Behavioral Treatment | 4 |
| Miscellaneous | 9 |
| Medical Daycare | 52 |
| Private Duty Nursing | 167 |
| Substance Abuse | 47 |
| Rehabilitation -Inpatient | 4 |
| Total | 1058 |

The medical specialties that are most frequently represented in the appeals are as follows:

| Medical Specialty | Total Cases |
|--------------------------|--------------------|
| Allergy Immunology | 0 |
| Addiction | 0 |
| Anesthesiology | 2 |
| Cardiology | 42 |
| Critical Care | 1 |
| Dental | 60 |
| Dermatology | 11 |
| Endocrinology | 7 |
| ENT (Eye, Nose, Throat) | 5 |
| Gastroenterology | 54 |
| General Surgery | 35 |
| Geriatrics | 10 |
| Hematology Oncology | 3 |
| Infectious Disease | 19 |
| Internal Medicine | 241 |

| | |
|--------------------------|------|
| Nephrology | 12 |
| Neurology | 35 |
| Neurosurgery | 5 |
| OB/GYN | 14 |
| Oncology | 11 |
| Ophthalmology | 0 |
| Orthopedics | 27 |
| Pain Management | 0 |
| Pediatric Endocrinology | 13 |
| Pediatric Otolaryngology | 0 |
| Pediatric Pulmonary | 16 |
| Pediatrics | 165 |
| Plastic Surgery | 10 |
| Podiatry | 3 |
| Psychiatry | 98 |
| Pulmonary | 52 |
| Radiation Oncology | 4 |
| Radiology | 7 |
| Rehabilitation | 75 |
| Rheumatology | 3 |
| Speech Pathology | 3 |
| Urology | 15 |
| Total | 1058 |

The number and disposition of appeals filed for each carrier is shown on the table below.

January 1, 2020 – June 30,2020

| Carrier | Market Share | Total Appeals Completed | IURO Determination | | | |
|---------------|--------------|-------------------------|--------------------|----------------------|-----------------|-------------------|
| | | | Disagree with Plan | % Disagree with Plan | Agree with Plan | % agree With Plan |
| Aetna Better | 2.24% | 41 | 19 | 46% | 21 | 51% |
| Aetna | 6.44% | 6 | 1 | 17% | 5 | 83% |
| AmeriChoice** | 14.34% | 328 | 173 | 53% | 155 | 47% |
| Amerigroup | 6.15% | 69 | 33 | 48% | 36 | 52% |
| AmeriHealth | 6.30% | 19 | 6 | 32% | 13 | 68% |
| Cigna | 2.33% | 7 | 3 | 43% | 4 | 57% |
| Horizon | 52.11% | 522 | 254 | 49% | 268 | 51% |
| Oscar | 0.50% | 4 | 2 | 50% | 2 | 50% |
| Oxford** | 4.01% | 15 | 9 | 60% | 6 | 40% |
| United** | 2.53% | 3 | 1 | 33% | 2 | 67% |
| WellCare | 2.54% | 44 | 24 | 55% | 20 | 45% |
| Total | 99.50% | 1058 | 526 | 50% | 532 | 50% |

** AmeriChoice (now d/b/a United Healthcare Community Plan), Oxford and United are all owned by UnitedHealth Group. The combined market share is 21.1%.

The table below shows the number of appeals received by the Office of Managed Care

(OMC) and the number reviewed by the IUROs since establishment of the IHCAP in 1997:

| Year | Appeals Accepted by OMC | Appeals Accepted by IURO |
|---------|-------------------------|--------------------------|
| CY 1997 | 27 | 25 |
| CY 1998 | 122 | 104 |
| CY 1999 | 174 | 144 |
| CY 2000 | 174 | 133 |
| CY 2001 | 303 | 273 |
| CY 2002 | 260 | 233 |
| CY 2003 | 342 | 318 |
| CY 2004 | 337 | 314 |
| CY 2005 | 358 | 343 |
| CY 2006 | 354 | 340 |
| CY 2007 | 306 | 299 |
| CY 2008 | 359 | 355 |
| CY 2009 | 477 | 477 |
| CY 2010 | 424 | 422 |
| CY 2011 | 712 | 702 |
| CY 2012 | 672 | 665 |
| CY 2013 | 548 | 521 |
| CY 2014 | 454 | 446 |
| CY2015 | 602 | 581 |
| CY2016 | 1027 | 984 |
| CY2017 | 1574 | 1166 |
| CY2018 | 2472 | 2390 |
| CY2019 | 2478 | 2398 |

As the table demonstrates, the annual number of appeals filed by covered persons remains low considering the number of residents enrolled in HMOs and other managed care plans (over 3.1 million). However, there has been a continuous increase in appeals, with a marked upturn in appeals starting in 2011. The number of appeals shown on the chart as accepted by OMC, represents the appeals determined to meet the criteria and forwarded to the IURO for review. The number of actual appeals reviewed by the IURO is often lower because of the carrier's decision to cover the service before the IURO initiates its review.

How the Appeal System Works

It is important to remember that covered persons are required to exhaust the carrier's internal appeals process before submitting an appeal for review by an IURO, except in urgent or emergency cases.

During the period covered by this report, all external appeal case reviews were conducted by the two IUROs under contract with the Department -- Island Peer Review Organization and Permedion, Inc. The reviews are performed by medical professionals, including specialty physicians appropriate to the area under review. The physician reviewers examine cases on the basis of medical records and other documents, generally accepted practice guidelines and applicable clinical protocols. The cost of the review is paid by the carrier and the fees ranged from \$900 to \$920 for this reporting period. Consumers pay a \$25 filing fee for an external

appeal, which is waived in cases of financial hardship and for Medicaid enrollees. The carrier is required to refund the \$25 filing fee to the covered person if the carrier's denial is overturned.

Consumers are allowed up to four months and up to sixty days for Medicaid enrollees from the date of a carrier's final adverse benefit determination to file an external appeal. Under routine circumstances, a decision must be rendered by the IURO within 45 calendar days from receiving the appeal request; however, the IURO can act within a matter of hours in urgent or emergency cases.

Consumer Education

New Jersey law requires that covered persons who are denied coverage based on lack of medical necessity for an otherwise covered medical procedure or service must be given an appeal form that includes instructions on how to file an appeal. On the few occasions when the Department has learned that a carrier failed to notify its member of the right to appeal, the Department has taken prompt corrective action.

An Appeal and Complaint Guide for New Jersey Consumers is available on the Department's website at www.state.nj.us/dobi/division_consumers/insurance/appealcomplaintguide.pdf. This Guide explains the utilization management appeal process and provides instructions for filing complaints against carriers with the Department. The Department also produces an annual HMO Report Card which includes information on the appeal process.