

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

Market Oversight

18.04.01 – Health Carrier External Review

Who does this rule apply to?

This rule applies to health carriers and independent review organizations

What is the purpose of this rule?

The purpose of this rule sets forth uniform requirements to be followed by health carriers and independent review organizations in implementing external review procedures in accordance with Title 41, Chapter 59, Idaho Code.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

- [Title 41, Chapter 2, et seq., Idaho Code](#) – The Department of Insurance
- [Title 41, Chapter 59, et seq., Idaho Code](#) – Idaho Health Carrier External Review Act

Who do I contact for more information on this rule?

Department of Insurance
700 W. State Street, 3rd Floor
Boise, ID 83720-0043

P.O. Box 83720
Boise, ID 83720-0043
Phone: 1(800) 721-3272 or (208) 334-4250
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18.04.01 – HEALTH CARRIER EXTERNAL REVIEW

000. LEGAL AUTHORITY.

Title 41, Chapters 2 and 59, Idaho Code. (3-20-20)

001. TITLE AND SCOPE.

01. **Title.** IDAPA 18.04.01, “Health Carrier External Review.” (4-7-11)

02. **Scope.** This rule sets forth uniform requirements to be followed by health carriers and independent review organizations in implementing external review procedures in accordance with Title 41, Chapter 59, Idaho Code. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS.

The definitions set forth in Title 41, Chapter 2 and 59 are applicable to these rules. In addition, the following terms have the following meanings: (3-20-20)

01. **URAC.** The nationally recognized private health care accreditation organization based in Washington, D.C., that accredits independent review organizations. The website for URAC is <https://www.urac.org>. (4-7-11)

011. FONT SIZE FOR PRINTED MATERIALS.

Pertinent text of all printed materials to be filed with the Director, including, but not limited to, notices, disclosure forms and contract forms, is to be formatted using at least a ten (10) point font. (3-20-20)

012. -- 019. (RESERVED)

020. NOTICE OF RIGHT TO EXTERNAL REVIEW.

01. **Disclosure to Covered Persons.** Each health carrier is to provide a summary description of external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage the health carrier provides to covered persons. Health carriers will use the summary description posted on the Department’s website or one that in the discretion of the Director is substantially identical. Health carriers need to submit summary description forms to the Director for review. (3-20-20)

02. **Notice to Covered Person.** When a health carrier sends written notice to a covered person of a final adverse benefit determination, the health carrier will include written notice at the same time of the covered person’s right to request an external review. (3-20-20)

a. The written notice of the covered person’s right to request an external review is to use the form posted on the Department’s website or one that in the discretion of the Director is substantially identical. Health carriers are to submit notice forms to the Director for review. (3-20-20)

b. The written notice sent by the health carrier as prescribed by this subsection is to include an authorization form to disclose protected health information in compliance with the federal regulation 45 CFR section 164.508. Health carriers need to submit authorization forms to the Director for review. (3-20-20)

021. REQUEST FOR EXTERNAL REVIEW.

01. **Request Form.** The form for a covered person to request an external review will be available from the department and will be posted on the department’s web site. (4-7-11)

02. **Authorization Form.** The covered person’s request for an external review is to include an authorization form to disclose protected health information prescribed in Paragraph 020.02.b. (3-20-20)

03. **Appointment of an Authorized Representative.** A covered person may name another person, including the treating health care provider, to act as the covered person’s authorized representative for an external review request. (4-7-11)

022. HEALTH CARRIER NOTICE OF INITIAL DETERMINATION OF AN EXTERNAL REVIEW REQUEST.

Health carriers are to use the form posted on the Department's website or one that in the discretion of the Director is substantially identical for notice of initial determination by a health carrier for a standard external review and for an expedited external review. Health carriers need to submit notice forms to the Director for review. (3-20-20)

023. APPROVAL OF INDEPENDENT REVIEW ORGANIZATIONS.

01. Accreditation. An independent review organization should be accredited by a nationally recognized private accrediting entity to be approved to perform reviews under Title 41, Chapter 59, Idaho Code, and this rule. (3-20-20)

02. Application for Registration. Independent review organizations need to apply to the department and pay the applicable fees, as set forth at IDAPA 18.01.02, to be registered to perform external reviews. The application for registration is posted on the department's web site. The application needs to include the independent review organization's schedule of costs and fees for performing external reviews. (3-20-20)

03. Notice to Director. (4-7-11)

a. An independent review organization will notify the Director in writing within thirty (30) days of the date the independent review organization is no longer accredited by a nationally recognized private accrediting entity or no longer satisfies the minimum requirements established under Title 41, Chapter 59, Idaho Code and this rule. (4-7-11)

b. Any change in the independent review organization's schedule of costs and fees for performing external reviews need to be submitted to the Director at least sixty (60) days before the effective date of the change. (3-20-20)

04. Termination of Approval. The Director may immediately terminate approval of an independent review organization if the independent review organization no longer satisfies the requirements of Title 41, Chapter 59, Idaho Code, and this rule. Notice of termination will be in writing to the independent review organization and such organization will be deleted from the list of organizations approved to perform external reviews. If the independent review organization is performing an external review at the time of termination, the independent review organization will cease performing that review and immediately forward all information and documentation to the Director. (3-20-20)

024. VOLUNTARY ELECTION BY ERISA PLAN ADMINISTRATOR.

01. Written Notice and Compliance. If a single employer self-funded ERISA employee benefit plan administrator or designee voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, the administrator or designee will: (3-29-12)

a. Provide timely and appropriate written notice to the Director of such election. The written notice needs to include the name of the administrator or designee, the contact name and title of the person to receive correspondence for the administrator or designee, that person's email address, voice and facsimile numbers, and the name of the employer or plan; (3-29-12)

b. Provide written notice to the plan beneficiary of any final adverse benefit determination and of the beneficiary's right to an external review pursuant to Title 41, Chapter 59, Idaho Code, as prescribed by Subsection 020.02 of this rule; and (3-20-20)

c. Comply with all other provisions of Title 41, Chapter 59, Idaho Code, and this rule, as if it were a health carrier, except the administrator or designee need not submit for the Director's review the forms posted on the Department's website. (3-20-20)

02. Single Plan Beneficiary. The written notice to the Director prescribed in Subsection 024.01 of this rule for a single plan beneficiary is included with the notice of initial determination of an external review request in Section 022. The notice needs to include the plan beneficiary's name and identification number. The administrator or designee cannot request from the Director to terminate an external review for a single plan beneficiary while the

review is in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. (3-20-20)

03. Specific Period of Time. The written notice to the Director prescribed in Subsection 024.01 for a specific period of time needs to include the start date and end date for that period of time and be received by the Director at least thirty (30) days in advance of the date the specific period of time will begin. Any change in the start or end date for a specific period of time on file with the Director needs to be received in writing at least thirty (30) days in advance of the date the change will take effect. The termination of the specific period of time will not terminate an external review in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. (3-20-20)

04. Effect of Election. Any single employer self-funded ERISA employee benefit plan administrator or designee that voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, and this chapter of rules, does not, solely by such election and/or compliance, waive any rights, remedies, duties, causes of action, or defenses it has under ERISA or other applicable law. (3-20-20)

025. -- 999. (RESERVED)

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