

External Review in Pennsylvania
and the Patient Protection and Affordable Care Act (PPACA)

The Department of Health, Bureau of Managed Care (Department) is providing the following guidance to plans and issuers impacted by the Patient Protection and Affordable Care Act and the interim regulations and guidance relating to external reviews issued by the Departments of Treasury, Labor and Health and Human Services.

If you are a health plan or issuer required to follow the federal external review process set out in the interim final regulations, the Department will offer its external review process for use in fulfilling the requirements of the interim final regulations during the interim enforcement safe harbor offered by the Department of Labor and the Internal Revenue Service in guidance issued by the federal Departments of Labor, Health and Human Services, and Treasury on August 26, 2010, and in accordance with additional guidance offered by HHS on September 2, 2010.

There are currently 8 companies certified to perform external review by the Department. The Department is requesting that each plan and issuer interested in utilizing the state external review process in Pennsylvania disclose any business relationship or proposed business relationship with any of these 8 external review companies on the enclosed conflict of interest form. This information will be used solely during the assignment of a review company to an appeal to ensure there is no conflict of interest. The Department will provide those plans and issuers with further information regarding the operation of the external review process. Information concerning this process is available at the Department's website at www.health.state.pa.us.

With respect to managed care plans subject to Article XXI of the Insurance Company Law of 1921 (40 P.S. § 991.2101 et seq.), commonly referred to as "Act 68," the Department, in conjunction with the Pennsylvania Insurance Department, is currently reviewing its existing standards relating to external reviews, and determining what changes will be necessary to ensure that its standards meet or exceed the standards set out in federal regulation. The regulations provide a nine month transition period in which to accomplish this. In taking such action, the Department is following guidance set forth in the preamble to the federal regulations, which encourages states to take the lead role in regulating health insurance issuers.

Plans and issuers choosing to use the existing state process should return the enclosed conflict of interest and registration forms by November 1, 2010. If you have any questions regarding the information in this letter, please do not hesitate to contact the Department's Bureau of Managed Care at 717-787-5193.