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HOUSE REPUBLICAN STAFF ANALYSIS

Bill: House File 597
Committee: Commerce
Floor Manager: Representative Dawn Pettengill
Date: July 14, 2011
Staff: Brad Trow (1-3471)

External Review of Health Care Coverage Decisions

House File 597 revises Iowa's law governing external review of health insurance carrier decisions related to what the carrier will cover. Iowa's external review law was created in 2000, but due to the passage of the federal health care law in 2010 it needs to be revised to comply with the new requirements imposed by Congress.

House File 597 is based on the model created by the National Association of Insurance Commissioners in 2010, and replaces the existing external review chapter with the language in the bill. Iowa's current law is based on NAIC's previous external review model legislation.

In a few places, changes made by the Legislature to the existing code chapter have been added to the new model language so that this bill maintains the intent of the legislature. The current chapter language is repealed effective with this bill's effective date of July 1, 2011.

One significant difference between the old model and the new is in the scope of reasons for review that is allowed under the new model. Under the current law, external review is limited to denials made by insurers strictly for the reason of medical necessity. House File 597 expands the review process to include considerations of additional reasons for denial by an insurer, including denials of claims made for treatments identified as investigational/experimental.

Summary of Action

Committee Action – The Commerce Committee **PASSED** House File 597 on a vote of 23-0 on March 3, 2011.

Initial House Action – The House **ADOPTED** House File 597 on a vote of 96-0 on March 23, 2011.

Senate Action – The Senate **ADOPTED** House File 597, as amended, on a vote of 50-0 on April 7, 2011.

Further House Action – The House **ADOPTED** House File 597, as amended, on a vote of 97-0 on April 18, 2011.

Final Action – The Governor **SIGNED** House File 597 on April 28, 2011.

Section by Section Analysis

Section 1 – Purpose – Applicability - The section creates the purpose and applicability provision for the new provisions in Iowa Code chapter 514J. The purpose of the revised chapter is to provide uniform standards for external review procedures in health care plans. These standards are to be in compliance with the federal health care reform law.

Section 2 - Definitions – The section creates the new definitions section in chapter 514J.

Section 3 – Applicability and Scope – The section states that chapter 514J and its requirements apply to all health carriers in the state of Iowa, with exceptions, including Medicare supplement plans, dental and vision coverage disability insurance, workers' compensation coverage, and auto medical coverage.

Section 4 – Notice of Right to External Review – The section sets out the information health carriers are required to provide to their plan enrollees regarding their rights to request an external review of the carrier's decision. The notice sent to insured parties must include language explaining that when a health carrier sends out a final denial of coverage for an experimental or investigational treatment, the party denied coverage can file a request for an external review.

Section 5 – Request for External Review – The section provides for a person to request an external review to the Insurance Commissioner. Except for expedited reviews, all requests must be made in writing.

Section 6 – Exhaustion of Internal Grievance Process – Exceptions – Expedited External Review Request – The section requires a person to exhaust all internal grievance processes provided by their health carrier prior to requesting an external review. The section does provide exceptions to this and sets out the process for requesting an expedited external review.

Section 7 – External Review – Standard – The section sets out the process under which a standard external review is conducted. Included are the timelines for the review, how the review is conducted, the content of the findings, and what happens after the external review has made its conclusions.

Section 8 – External Review – Expedited – The section sets out the process for an expedited review. The section lays out the criteria under which an expedited review can be granted, how the expedited review shall occur, and how the results shall be handled.

Section 9 – External Review of Experimental or Investigational Treatment Adverse Determination – This section deals with appeals of health carrier decisions related to potential treatment with experimental or investigational therapies. While the procedure for this type of review is similar to the standard external review, the decisions rendered by the independent review organization shall be based on the opinion of a majority of the clinical reviewers examining the case.

Section 10 – Effect of External Review Decision – The section sets out the procedures to be followed after a decision has been rendered in an external review. The covered person or their representative may appeal the decision of the external review in district court (either their home county or Polk County), which has to be filed within 15 days of the decision. They may also bring suit in district court to enforce a decision of the review panel. The section also lays out procedures for how an external review is to be handled if the covered person has died during the time the review was being conducted.

Section 11 – Approval of Independent Review Organizations – The section lays out the procedure by which the Insurance Commissioner shall approve groups to be authorized to conduct external reviews in Iowa.

Section 12 – Minimum Qualifications for Independent Review Organizations – The section delineates the criteria that an organization must meet in order to qualify as an Independent Review Organization.

Section 13 – Immunity for Independent Review Organizations – The section grants immunity to independent review organizations for their work, unless the opinion rendered in the review or work performed in the review was done so in bad faith or involved gross negligence.

Section 14 – External Review Reporting Requirements – The section provides for the requirement that independent review organizations maintain records and file reports with the insurance commissioner on the number of external reviews they are conducting in Iowa and how many for each health insurance carrier.

Section 15 – Expenses of External Review – The section establishes that the health insurance carrier is responsible for paying the cost of the review.

Section 16 - Disclosure Requirements – The section requires all health carriers in Iowa to provide notification to all covered persons about the external review process and their rights to request one.

Section 17 – Rulemaking Authority – The section gives the insurance commissioner rulemaking authority under Iowa Code chapter 17A to implement the bill.

Section 18 – Severability – The section provides that if one part of the bill is found to be invalid, the rests of the bill remains in effect.

Section 19 – Penalties - The section provides that a person who fails to comply with a provision of the bill or the rules promulgated under it is subject to the penalties in chapter 507B, the Insurance Trade Practices chapter.

Section 20 – Applicability – The section makes the bill applicable to requests for external review on or after July 1, 2011. Section 16, which sets the disclosure requirements, is applicable to insurance policies purchased or renewed on or after July 1, 2011.

Section 21 – Repeal – The section repeals the existing external review procedure in chapter 514J.

Section 22 – Transition Provision – Applicability to Prior Requests – The current Code language for external review shall still apply for any external review request made prior to July 1, 2011.