

**Kansas Administrative Regulations**  
**Agency 40. Insurance Department**  
**Article 4. Accident and Health Insurance**

**40-4-42b Preliminary determination by commissioner.**

(a) Within 10 business days after receiving the written request for external review and all necessary information, a preliminary determination shall be completed by the commissioner. The insured, the treating physician or insured's authorized representative or health care provider acting on behalf of the insured, and the insurer or health insurance plan shall be notified by the commissioner in writing of any of the following:

- (1) If the request for external review is complete and has been accepted;
- (2) If the request for external review is not complete; or
- (3) if the request for external review is not accepted.

(b) Preliminary determination by the commissioner shall be to determine the following:

(1) If the individual is or was an insured in the insurance plan at the time the health care service was requested or, in the case of a retrospective review, was an insured in the insurance plan at the time the health care service was provided;

(2) if the health care service that is the subject for the adverse decision reasonably appears to be a covered service under the insured's insurance plan;

(3) if the insured has exhausted all available internal review procedures provided by the health insurance plan or insurer, unless the insured has an emergency medical condition as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, in which case an expedited procedure is used;

(4) if the insured has received an adverse decision as defined in L. 1999, Ch. 162, Sec. 6(a), and amendments thereto, and K.A.R. 40-4-42(l);

(5) if the insured has not exhausted all internal review procedures, but is entitled to external review pursuant to L. 1999, Ch. 162, Sec. 7, and amendments thereto; and

(6) if the insured has provided all the information and forms required by the commissioner that are necessary to process and external review request.

(c) If the request for external review is accepted, the following steps shall be taken by the commissioner:

(1) Assign an independent review organization to conduct the external review that has been approved pursuant to L. 1999, Ch. 162, Secs. 6 and 8, and amendments thereto, and K.A.R. 40-4-42e; and

(2) notify the insured, the treating physician or health care provider acting on behalf of the insured or the insured's authorized representative, and the insurer or health insurance plan in writing that the request has been accepted for external review and provide the name, address,

and telephone number of the external review organization who has been assigned to conduct the external review.

(d) If the request for external review is not complete, the insured or the insured's authorized representative shall be informed by the commissioner of the information or materials needed to make the request complete.

(e) If the request for external review is not accepted, the insured, the treating physician or health care provider acting on behalf of the insured or the insured's authorized representative, and the insurer or health insurance plan shall be informed by the commissioner, in writing, of the reasons for its nonacceptance.

This regulation shall take effect on and after January 1, 2000.

(Authorized by K.S.A. 40-103 and L. 1999, Ch. 162, § 9; implementing L. 1999, Ch. 162, § § 6-9; effective Jan. 7, 2000.)