

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

40-4-42d Expedited external review.

(a) If the insured has an emergency medical condition, as defined in L. 1999, Ch. 162, Sec. 6, and amendments thereto, and receives an adverse decision involving that medical condition, the insured or the insured's authorized representative may make a written request for an expedited review with the commissioner at the time the insured receives the adverse decision.

(b) At the time the commissioner receives a request for an expedited external review, a preliminary determination shall immediately be completed by the commissioner 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; and

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

(c) At the time the commissioner completes the preliminary determination as provided in subsection (b) of this regulation, the following actions shall immediately be taken by the commissioner:

(1) Assign an external review organization that has been approved pursuant to L. 1999, Ch. 162, Secs. 6 and 8, and amendments thereto, to conduct the review and to make a decision to uphold or reverse the adverse decision; and

(2) send a copy of the request for the review to the insurer or health plan that made the adverse decision that is the subject of the request and notify the insured, the treating physician or health care provider, and the insurer or health plan of the name, address, and telephone number of the external review organization assigned to conduct the expedited external review.

(d) In reaching a decision, the assigned external review organization shall not be bound by any decision or conclusions reached during the insurer's utilization review process as set forth in K.S.A. 40-22a01 and L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, or the insurer's internal grievance process.

(e) At the time the insurer receives the notice pursuant to paragraph (c)(2), the insurer or its designee utilization review organization shall provide or transmit all necessary documents and information that were considered in making the adverse decision to the assigned external review organization by electronic means, by telephone or facsimile, or by any other available expeditious method by 5:00 p.m. central standard time of the next business day after receiving notice pursuant to paragraph (c)(2) of this regulation.

(f) In addition to the documents and information provided or transmitted pursuant to subsection (e) of this regulation and to the extent that the information or documents are available, the assigned external review organization shall consider the following in reaching a decision:

(1) The insured's pertinent medical records;

- (2) the attending health care professional's recommendation;
 - (3) consulting reports from appropriate health care professionals and any other documents submitted by the insurer, the insured, the insured's authorized representative, or the insured's treating provider;
 - (4) the terms of the coverage under the insured's insurance plan with the insurer, to ensure that the external review organization's decision is not contrary to the terms of coverage under the insured's health benefit plan with the insurer;
 - (5) the most appropriate practice guidelines, including generally accepted practice guidelines, evidence-based practice guidelines, and any other practice guidelines developed by the federal government and national or professional medical societies, boards, and associations; and
 - (6) any applicable clinical review criteria developed and used by the insurer or its designee utilization in making adverse decisions.
- (g)(1) As expeditiously as the insured's medical condition or circumstances require, but not more than seven business days after the date of receipt of the request for an expedited external review, the assigned external review organization shall perform the following:
- (A) Make a decision to uphold or reverse the adverse decision; and
 - (B) notify the insured or the insured's authorized representative, the insurer, and the commissioner of the decision.
- (2) If the notice provided pursuant to paragraph (g)(1) of this regulation was not in writing, within two days after the date of providing that notice, the assigned external review organization shall perform the following:
- (A) Provide written confirmation of the decision to the insured or the insured's authorized representative, the insurer, and the commissioner; and
 - (B) include the information set forth in K.A.R. 40-4-42c(h).
- (h) An expedited external review shall not be provided for retrospective adverse decisions.

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.)