

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

40-4-42e Minimum qualifications for external review organizations.

(a) To be approved under K.A.R. 40-4-42e and L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, to conduct external reviews, an external review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in K.A.R. 40-4-42c and K.A.R. 40-4-42d and that include at minimum:

(1) A quality assurance mechanism in place that meets the following criteria:

(A) Ensures that external reviews are conducted within the specified time frames and required notices are provided in a timely manner;

(B) ensures the selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the external review organization and suitable matching of reviewers to specific cases;

(C) ensures the confidentiality of medical and treatment records and clinical review criteria; and

(D) ensures that any person employed by or under contract with the external review organization adheres to requirements of L. 1999, Ch. 162, Secs. 6 through 9, and amendments thereto, and K.A.R. 40-4-42 through 40-4-42g;

(2) a toll-free telephone service to receive, on a 24 hours per day, seven days per week basis, information related to external review that is capable of accepting, recording, or providing appropriate instructions to incoming telephone callers during other than normal business hours; and

(3) an agreement to maintain and provide to the commissioner the information set out in K.A.R. 40-4-42g.

(b) All clinical peer reviewers assigned by an external review organization to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

(1) Are qualified and credentialed in the treatment of the insured's medical condition that is the subject of the external review;

(2) are knowledgeable about the recommended health care service or treatment through actual or recent clinical experience that may be based on the following:

(A) The actual treatment of patients with the same or similar medical condition as that of the insured; and

(B) the period of time that has elapsed between the clinical experience and the present;

(3) hold a nonrestricted license in a state of the United States and, for physicians, a current

certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

(4) have no history of disciplinary actions or sanctions, including loss of staff privileges or any participation restriction that has been taken or is pending by any hospital, governmental agency or unit, or regulatory body, that raises a substantial question as to the clinical peer reviewer's physical, mental, or professional competence, or moral character.

(c) In addition to the requirements set forth in subsection (a) of this regulation, an external review organization shall not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control, with any of the following:

(1) An insurance plan;

(2) a national, state, or local trade association of health insurance plans; or

(3) a national, state, or local trade association of health care providers.

(d) In addition to the requirements set forth in subsections (a), (b), and (c) of this regulation, to be approved pursuant to L. 1999, Ch. 162, Sec. 8, and amendments thereto, to conduct an external review of a specified case, neither the external review organization selected to conduct the external review nor any clinical peer review assigned by the external organization to conduct the external review may have a material professional, familial, or financial conflict of interest with any of the following:

(1) The insurer that is the subject of the external review;

(2) the insured whose treatment is the subject of the external review or the insured's authorized representative;

(3) any officer, director, or management employee of the insurer that is the subject of the external review;

(4) the health care provider, the health care provider's medical group, or the independent practice association recommending the health care service or treatment that is the subject of the external review;

(5) the facility at which the recommended health care service or treatment would be provided;
or

(6) the developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the insured whose treatment is the subject of the external review.

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.)