



## MISSISSIPPI INSURANCE DEPARTMENT

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**MIKE CHANEY**  
Commissioner of Insurance  
State Fire Marshal

**MARK HAIRE**  
Deputy Commissioner of Insurance

### MISSISSIPPI INSURANCE DEPARTMENT BULLETIN 2012-5

**TO: ALL INSURANCE CARRIERS IN THE STATE OF MISSISSIPPI LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE AND CERTIFIED INDEPENDENT REVIEW ORGANIZATIONS**

**FROM: MIKE CHANEY  
COMMISSIONER OF INSURANCE**

**DATE: October 25, 2012**

**SUBJECT: COMPLIANCE REQUIREMENTS FOR MISSISSIPPI HEALTH CARRIER EXTERNAL REVIEW REGULATION EFFECTIVE January 1, 2013**

#### **I. Purpose**

In accordance with the provisions of the Mississippi Health Carrier External Review Regulation, the purpose of this Bulletin is to:

- A. Notify carriers and Independent Review Organizations ("IROs") of the establishment of an external review process in Mississippi;
- B. Promulgate the application form for IROs seeking to conduct external reviews; and
- C. Establish procedures for submission and review of initial IRO applications.

#### **II. Background**

The Patient Protection and Affordable Care Act (Public Law 111-148), enacted on March 23, 2010, as amended by the Health Care and Education Reconciliation Act (Public Law 111-152), enacted on March 30, 2010, referred to collectively as the "Affordable Care Act", reorganizes, amends, and adds to the provisions of the Public Health Service Act ("PHSA"). Section 2719 of the PHSA and related regulations set forth minimum requirements for the external review of health insurer's adverse claim determinations.

Section 2719(b)(1) of the PHSA requires that group health plans and health insurance issuers in the group and individual market comply with a state external review process if that process includes, at a minimum, the consumer protections set forth in the Uniform Health Carrier External Review Model Act issued by the National Association of Insurance Commissioners ("NAIC").

Two categories of State external review processes have been identified that will satisfy the aforesaid minimum consumer protections: 1) a state external review process that meets the sixteen (16) minimum consumer protections described in paragraph (c)(2) of the regulation as authorized under section 2719(b)(1)

of the PHSA, and referred to as the “NAIC-parallel process”; or 2) a state external review process that meets the minimum standards established by the Secretary of HHS through guidance under section 2719(b)(2), and referred to as the “NAIC-similar process”.

On July 29, 2011, the Mississippi Commissioner of Insurance received a letter from the Director of the Center for Consumer Information and Insurance Oversight (“CCIIO”) stating that Mississippi did not meet the minimum standards of the NAIC-parallel process nor the NAIC-similar process. Said letter is attached hereto as Appendix “A”. The letter stated that if Mississippi develops an external review process it may request that CCIIO evaluate it and consider a redetermination of the State’s ability to operate an effective external review process.

In response to said letter, the Mississippi Insurance Department (“MID”) lawfully promulgated a regulation based upon the NAIC Uniform Model Act as the *Mississippi Health Carrier External Review Regulation* (“Regulation”). MID subsequently submitted the Regulation to CCIIO and requested a redetermination of the State’s external review process.

On December 21, 2011, the Commissioner of Insurance received a letter, attached hereto as Appendix “B”, from the Director of CCIIO regarding the redetermination of the State’s external review process. The letter stated that CCIIO had redetermined that Mississippi will meet the standards of the NAIC-parallel process beginning on April 1, 2012, when the Regulation becomes effective.

Regulations issued by the U.S. Department of Health and Human Services (“HHS”) under the ACA require that states have an effective external review process in place by January 1, 2012, or external review of adverse claim determinations will be conducted by a federally facilitated process. Prior to January 1, 2012, MID and CCIIO determined that while Mississippi’s Regulation created an effective external review process for the State, MID did not have the necessary resources available to have that process implemented by January 1, 2012. Therefore, MID’s regulation was amended to change the effective date of said regulation to January 1, 2013, and defer to the federal process for external review until that date. In an effort to meet this deadline, MID is seeking applications from IROs capable of providing external reviews of adverse claims determinations consistent with the guidelines set forth in the aforementioned Regulation.

### III. External Review Process

#### Eligibility Determinations

	Determination By:	Notification of Ineligibility to covered person by:
<u>Filing Deadline</u> Standard Review: 120 Days after any adverse determination Expedited: 120 Days after any adverse determination	Health Carrier	Health Carrier
<u>Contract Ineligible</u> (Dental, vision, self-insured non-governmental plans, out-of-state, Worker’s Compensation, Medicare/ Medicaid)	Commissioner	Commissioner
<ul style="list-style-type: none"> <li>• Coverage is Not In Force</li> <li>• Not a Covered Benefit</li> <li>• Has not exhausted internal grievance process</li> <li>• Missing information on required forms</li> <li>• Not a medical necessity denial</li> </ul> <i>(rescissions and eligibility issues allowed)</i>	Health Carrier	Health Carrier

**Process Workflow**

<b>Task</b>	<b>Completed By:</b>	<b>Standard Review</b>	<b>Expedited Review</b>	<b>Notification to Covered Person By:</b>
<u>External Review Received</u> Send to health carrier	Commissioner	(1) Business Day	(1) Day	
<u>Preliminary Review</u> Individual is a covered person, health care service is a covered service, Internal Appeals have been exhausted or it is expedited, all required forms and releases have been signed.	Health Carrier	(5) Business Days + (1) Business Day to Notify of Results	(1) Day	<u>Health Carrier</u> Request is eligible and complete. -or- Notifies that appeal is incomplete or ineligible. If ineligible, covered person may appeal to Commissioner.
<u>Accepted for Full Review</u> Assign IRO & notify covered person of right to submit new information.	Commissioner	(1) Business Day	(1) Day	Commissioner
<u>Documents to IRO</u> Documents/Info considered in making an adverse determination sent to IRO	Health Carrier	(5) Business Days	(1) Day	
<u>Full Review Process</u>	IRO	(45) Days Or (20) Days <i>(Experimental)</i>	(72) Hours Or (5) Days <i>(Experimental)</i>	IRO

**IV. Application Form for Initially Approving IROs to Conduct External Reviews**

Section 12 of the Regulation requires an application to be submitted by IROs seeking to conduct external reviews of adverse claims determinations in accordance with guidelines set forth in the Regulation. The application form is attached hereto as Appendix "C".

**V. Procedures for Submission of Initial Applications**

An IRO wishing to be approved to conduct external reviews must submit:


- A. The application form and include all required documentation and information necessary for the Commissioner to determine if the IRO satisfies the minimum qualifications established under Section 13 of the Regulation;
- B. An original and two copies of all requested information to: Mississippi Insurance Commissioner, Mississippi Insurance Department, P.O. Box 79, Jackson, MS 39205; and
- C. A \$50.00 application fee payable to the Mississippi Insurance Department.

In accordance with Section 12 of the Regulation, the Commissioner will maintain and periodically update a list of approved IROs. The first list will be published prior to January 1, 2013. To ensure that an IRO is considered for inclusion in the initial list of approved IROs, applications must be received by the Insurance Department no later than December 3, 2012. IRO Applications will continue to be

accepted throughout the year, however, in order to be included on the January 1, 2013, list the application must be submitted by the aforementioned deadline. An approval is effective for two (2) years, unless otherwise determined by the Commissioner. IROs will be listed in the order in which their application was received by MID and external reviews will be assigned, as received, one at a time, to the next eligible IRO on the list.

Aaron Sisk  
Director, Life & Health Actuarial Division  
Mississippi Insurance Department  
P.O. Box 79  
Jackson, MS 39205

Phone: (601) 359-2012  
Email: [Aaron.Sisk@mid.state.ms.us](mailto:Aaron.Sisk@mid.state.ms.us)

A handwritten signature in black ink, appearing to read "Mike Chaney", written over a horizontal line.

MIKE CHANEY  
COMMISSIONER OF INSURANCE



July 29, 2011

The Honorable Mike Chaney  
Insurance Commissioner  
PO Box 79  
Jackson, MS 39205

Re: State External Review Process Determination

Dear Commissioner Chaney:

This letter follows up on our discussions with your office regarding Mississippi's external review laws. The Affordable Care Act ensures that all health care insurance consumers have access to strong external review processes under section 2719 of the Public Health Service Act (PHS Act).<sup>1</sup> In implementing this provision, the Departments of Health and Human Services (HHS), Labor, and the Treasury (the Departments) have focused on ensuring that State external review processes can be maintained to the extent possible.<sup>2</sup> Over the past year, we have actively worked with States to provide guidance and assist States seeking to amend their external review processes to meet federal requirements.

Through this process, the Departments have established two categories of State external review processes that will satisfy these statutory standards: 1) a State external review process that meets the 16 minimum consumer protections described in paragraph (c)(2) of the regulations as authorized under section 2719(b)(1) of the PHS Act (hereinafter referred to as "NAIC-parallel process"); or 2) a State external review process that meets the minimum standards established by the Secretary of Health and Human Services through guidance under section 2719(b)(2) (hereinafter referred to as "NAIC-similar process").<sup>3</sup>

The Center for Consumer Information and Insurance Oversight (CCIIO) has determined that Mississippi does not currently have an external review law in place and therefore does not meet the standards of the NAIC-parallel process or the NAIC-similar process.

If Mississippi develops an external review process, you may request that CCIIO evaluate it, Mississippi may request a new determination at any time. To do so, please send a letter to the attention of Ellen Kuhn, Director of the Appeals program in CCIIO at the Centers for Medicare & Medicaid Services (CMS) at [externalappeals@cms.hhs.gov](mailto:externalappeals@cms.hhs.gov). Please include the reason(s) why

<sup>1</sup> Section 2719 does not apply to grandfathered health plans. See interim final regulations regarding status of a group health plan or health insurance coverage as a grandfathered plan under section 1251 of the Affordable Care Act issued on June 17, 2010 (75 FR 34538), amended on November 17, 2010 (75 FR 70114).

<sup>2</sup> Regulations implementing PHS Act section 2719 were published on July 23, 2010, at 75 FR 43330, and amended on June 24, 2011, at 76 FR 37208.

<sup>3</sup> HHS established these minimum standards in Technical Release 2011-02 on June 22, 2011, which can be found at [http://cciio.cms.gov/resources/files/appeals\\_srg\\_06222011.pdf](http://cciio.cms.gov/resources/files/appeals_srg_06222011.pdf). Beginning January 1, 2014, issuers of non-grandfathered health insurance plans and policies in a State with an external review process that does not satisfy the standards of the NAIC-parallel process will need to participate in a federally administered process.

you believe that Mississippi's new external review process meets the NAIC-similar standards and/or the NAIC-parallel standards together with copies of any statutory language, regulations, bulletins, or other documentation that you would like CCHIO to consider. CCHIO will re-evaluate Mississippi's external review process and issue a redetermination within 30 days of receipt of your completed re-evaluation request.

All issuers of non-grandfathered health insurance plans and policies in Mississippi's group and individual market are currently subject to the Federally-administered external review process and will be subject to this process unless and until CCHIO issues a redetermination that the Mississippi external review process meets the NAIC-similar standards (if it is before January 1, 2014) or the NAIC-parallel standards. Please direct the health insurance issuers in your State to T.R. 2011-02 as well as to the additional guidance on the CCHIO website ("Instructions for self-insured non-federal governmental health plans and health insurance issuers offering group and individual health coverage on how to elect a federal external review process") for more information on the Federally-administered external review process.<sup>4</sup>

We remain committed to working in partnership with your State. Our goal is to ensure external reviews are conducted under State law, and we will provide whatever assistance we can to work with you and your State in the weeks ahead to meet that goal.

As always, CCHIO welcomes questions from state regulators and remains available to provide technical assistance on proposed modifications to the external review processes. Please feel free to contact Colin McVeigh at [Colin.McVeigh@oms.hhs.gov](mailto:Colin.McVeigh@oms.hhs.gov) with any questions or concerns.

Sincerely,



Steve Larsen, Director  
Center for Consumer Information and Insurance Oversight

cc: Aaron Sisk

<sup>4</sup> Guidance is available at [http://cchlo.cms.gov/resources/files/hhs\\_srg\\_elections\\_06222011.pdf](http://cchlo.cms.gov/resources/files/hhs_srg_elections_06222011.pdf)



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

200 Independence Avenue SW  
Washington, DC 20201

December 21, 2011

The Honorable Mike Chaney  
Insurance Commissioner  
PO Box 79  
Jackson, MS 39205

Re: State External Review Process Redetermination

Dear Commissioner Chaney:

This letter follows up on Mississippi's request for a redetermination of its external review laws. The Affordable Care Act ensures that health care insurance consumers have access to strong external review processes under section 2719 of the Public Health Service Act (PHS Act).<sup>1</sup> In implementing this provision, the Departments of Health and Human Services (HHS), Labor, and the Treasury (the Departments) have focused on ensuring that State external review processes can be maintained to the extent possible.<sup>2</sup> We have actively worked with States to provide guidance and assist States seeking to amend their external review processes to meet federal standards.

Through this process, the Departments have established two categories of State external review processes that will satisfy these statutory standards: 1) a State external review process that meets the 16 minimum consumer protections described in paragraph (c)(2) of the regulations as authorized under section 2719(b)(1) of the PHS Act (hereinafter referred to as "NAIC-parallel process"); or 2) a State external review process that meets the minimum standards established by the Secretary of Health and Human Services through guidance under section 2719(b)(2) (hereinafter referred to as "NAIC-similar process").<sup>3</sup>

We applaud your efforts and progress to date to provide a strong external review process. After reviewing the information Mississippi submitted, including the regulation that was promulgated on November 28, 2011, the Center for Consumer Information and Insurance Oversight (CCIIO) at the Centers for Medicare & Medicaid Services (CMS) has determined that Mississippi's external review process will meet the standards of the NAIC-parallel process beginning on April 1, 2012 when the regulation becomes effective. It is our understanding that Mississippi's promulgation process for expedited regulations requires a comment period and a public hearing before a regulation becomes permanent, and that this hearing is scheduled for December 20,

<sup>1</sup> Section 2719 does not apply to grandfathered health plans. See interim final regulations regarding status of a group health plan or health insurance coverage as a grandfathered plan under section 1251 of the Affordable Care Act issued on June 17, 2010 (75 FR 34538), amended on November 17, 2010 (75 FR 70114).

<sup>2</sup> Regulations implementing PHS Act section 2719 were published on July 23, 2010, at 75 FR 43330, and amended on June 24, 2011, at 76 FR 37208 (corrected on July 26, 2011, at 76 FR 44491).

<sup>3</sup> HHS established these minimum standards in Technical Release 2011-02 on June 22, 2011, which can be found at [http://cciio.cms.gov/resources/files/appeals\\_srg\\_06222011.pdf](http://cciio.cms.gov/resources/files/appeals_srg_06222011.pdf). Beginning January 1, 2014, issuers of non-grandfathered health insurance plans and policies in a State with an external review process that does not satisfy the standards of the NAIC-parallel process will need to participate in a federally administered process.

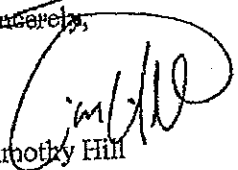
2011. As long as the permanent regulation contains the same provisions as the expedited regulation and is in effect on or before the expiration date of the expedited rule, Mississippi will continue to meet the standards of the NAIC-parallel process.

Accordingly, until April 1, 2012, issuers of non-grandfathered health insurance plans and policies in the State of Mississippi must continue using the Federal external review process. And, any external review received prior to April 1, 2011, will be completed in the Federal external review process. Starting on April 1, 2012, issuers of non-grandfathered health insurance plans and policies in the State of Mississippi must comply with Mississippi's external review process.

Please note that in order for issuers of non-grandfathered health insurance plans and policies in the State of Mississippi to continue using the State of Mississippi's external review process after April 1, 2012, Mississippi may not reduce the consumer protections in their external review process below the levels that are articulated in the November 28, 2011, regulation. Failure to uphold the existing consumer protections in the State of Mississippi could result in a redetermination by CCIIO that issuers of non-grandfathered health insurance plans and policies in the State of Mississippi must use the Federally-administered external review process.

As always, CCIIO welcomes questions from state regulators and remains available to provide technical assistance on proposed modifications to the external review processes. Please feel free to contact Colin McVeigh at [Colin.McVeigh@cms.hhs.gov](mailto:Colin.McVeigh@cms.hhs.gov) with any questions or concerns.

Sincerely,



Timothy Hill  
Deputy Director  
Center for Consumer Information and Insurance Oversight

cc: Aaron Sisk



# Mississippi Insurance Department

## Application for Approval of Independent Review Organizations

**Application for registration as an independent review organization for entities accredited by a nationally recognized private accrediting entity**

To be submitted along with Proof of current accreditation

**Type of Entity:**      Corporation     Partnership     Association     LLC     Other

Legal Name of Applicant		Federal Tax Identification Number		
Contact Person Name and Title		Phone	Email	
Business Physical Address		City	State	Zip
Mailing Address (if different from business address)		City	State	Zip
Business Phone	Fax	State of Domicile		
Does the applicant have a secure method of transferring confidential files electronically? Yes/No If so, describe				
List all other states in which applicant is approved to conduct external reviews:				
Identify all accreditations, including number of years accredited: (Attach copies of accreditations)				
Has the applicant ever been refused approval or accreditation to perform independent reviews? (If yes, please attach explanation)				
Has the applicant ever lost approval or accreditation to perform independent reviews? Yes/No (if yes, please attach explanation)		Has the applicant been the subject of any administrative action or complaint in the past ten years? Yes/No (If yes, please attach explanation and copy of final orders/actions)		

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## Required Documents and Exhibits

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Please provide below the list of required documents to determine if the IRO satisfies the minimum qualifications established under Mississippi Health Carrier External Review Regulation, Section 13 (*19 Miss. Admin. Code, Pt. 3, R. 15.13*).

1. Provide a chart showing the internal structure of the applicant's management and administrative staff. Include a written statement that the applicant and all clinical reviewers do not have any conflict of interest as stated in the Regulation.
2. Provide a copy of the rules, regulations or any other related document that governs all aspects of both the standard external review process and the expedited external review process, according to the requirements listed in the Regulation.
3. Provide a list of all clinical reviewers who meet the minimum qualifications to conduct an external review established in the Regulation. The list should include the following information for all qualified clinical reviewers; Name, License Number, State of License Issuance, Primary Specialty, Date of Specialty Certification Expiration, Sub-Specialty and Date of Sub-Specialty Certification Expiration.
4. Provide an official statement that the IRO is not and will not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, State or local trade association of health benefit plans, or a national, State or local trade association of health care providers.
5. Provide the written procedure established and maintained by the IRO to ensure it is unbiased.
6. Submitting this application to the Mississippi Insurance Department of Insurance does not in any way dismiss a corporation from the requirements of registration with the Mississippi Secretary of State. It is the responsibility of the corporation to contact that Office and make whatever actions are necessary to conduct an external review in this State. Please provide the appropriate documentation showing proof of action.

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## Applicant Attestation and Certification

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Applicant has received accreditation as an independent review organization by \_\_\_\_\_ accrediting body to conduct independent external reviews. Applicant certifies that it will notify the Mississippi Insurance Department if accreditation is lost with this accrediting body. Applicant acknowledges that the Commissioner of Insurance may terminate this license if the applicant loses accreditation or no longer satisfies the minimum requirements for licensure.

Applicant acknowledges that payment of any fees associated with any external reviews conducted pursuant to the Mississippi Health Carrier External Review Regulation (*19 Miss. Admin. Code, Pt. 3 R. 15.*) are the sole responsibility of the health carrier whose medical decision is being reviewed. Applicant understands that it has no recourse against the Mississippi Insurance Department or the State of Mississippi to the extent that any health carrier fails to pay any medical reviewer fees. Applicant authorizes the Mississippi Insurance Commissioner to verify information with any federal, state, or local government agency, insurance company or accrediting organization.

I certify that, under penalty of perjury, I am the person named herein and know the contents thereof, and that all of the information submitted in this application and the attachments are true and complete. I attest that I have the authority and capacity to execute this certification on behalf of the applicant. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license denial or revocation and may subject me to civil or criminal penalties.

Name of Applicant: \_\_\_\_\_

Signature of Officer or Representative of Applicant: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title \_\_\_\_\_ Date: \_\_\_\_\_

**\*Please submit the filing fee of \$50.00 with this application.**