

COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • <http://www.mass.gov/doi>

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR


JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

DANIEL R. JUDSON
COMMISSIONER OF INSURANCE

BULLETIN 2016-02

TO: Commercial Health Insurers; Blue Cross Blue Shield of Massachusetts, Inc.; and Health Maintenance Organizations Offering or Renewing Insured Health Products in Massachusetts

FROM: Daniel R. Judson, Commissioner of Insurance 

DATE: January 19, 2016

RE: Requirements for Carriers Issuing Written Notices of Adverse Determinations

The Division of Insurance (“Division”) issues this Bulletin to make commercial health insurers, Blue Cross Blue Shield of Massachusetts, Inc. and health maintenance organizations offering or renewing insured health products (hereinafter referred to as “Carriers”) aware that they are required to comply with certain federal health insurance appeal requirements under the Patient Protection and Affordable Care Act (“ACA”), including those associated with the content of adverse determination notices.

Please note that when a Carrier sends to an insured an initial written notice of an adverse determination at the end of utilization review and prior to the initiation of any appeals processes, the written notice shall include a substantive clinical justification that is consistent with generally accepted principles of professional medical practice, and shall, at a minimum:

- include information about the claim including, if applicable, the date(s) of service, the health care provider(s), the claim amount, and any diagnosis, treatment, and denial code(s) and their corresponding meaning(s);
- identify the specific information upon which the adverse determination was based;
- discuss the insured's presenting symptoms or condition, diagnosis and treatment interventions;
- explain in a reasonable level of detail the specific reasons such medical evidence fails to meet the relevant medical review criteria;
- reference and include a copy of any applicable clinical practice guidelines, medical review criteria, or other clinical basis for the adverse determination;
- include a description of any additional material or information necessary for the insured to perfect the claim and an explanation of why such material or information is necessary;

- include a clear, concise and complete description of the Carrier's review procedures along with the applicable time limits, including a description of the formal internal grievance process and the procedures for obtaining external review, pursuant to 958 CMR 3.000, and the process for seeking expedited internal review and concurrent expedited internal and external reviews, pursuant to 958 CMR 3.309;
- include a statement of the insured's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as applicable;
- notify the insured of the availability of, and contact information for, the consumer assistance toll-free number maintained by the Office of Patient Protection, and if applicable, the Massachusetts consumer assistance program; and
- include a statement, prominently displayed in English, Arabic, Khmer (Cambodian), Chinese, French, Greek, Haitian-Creole, Italian, Lao, Portuguese, Russian, Spanish, and any non-English language in which 10% or more of the population residing in any Massachusetts county served by the Carrier is only literate in the same non-English language, as specified by the Office of Patient Protection, that clearly indicates how the insured can request oral interpretation and written translation services from the Carrier consistent with 958 CMR 3.700.

Carriers should make amendments, as necessary, so that the written adverse determination notices that they will send to insureds will be compliant with these requirements. The Division requests that Carriers forward templates for all adverse determination notices to the Division so that the materials may be added to the Carriers' managed care accreditation files.

If you have any questions about this Bulletin, please consider contacting Kevin Beagan at 617-521-7323 or Kevin.beagan@state.ma.us.