



February 28, 2023

VIA Email: hpc-testimony@mass.gov

Ms. Nancy K. Ryan, Director
Office of Patient Protection
Health Policy Commission
50 Milk Street, 8th Floor
Boston, MA 02109

RE: Proposed Amendments to 958 CMR 3.000 – Health Insurance Consumer Protection

Dear Director Ryan:

On behalf of the Massachusetts Association of Health Plans (MAHP), which represents 14 member health plans and two behavioral health organizations that provide coverage to nearly 3 million Massachusetts residents, I am writing to offer comments on the proposed amendments to 958 CMR 3.000 – the Health Insurance Consumer Protection regulations. In general, we appreciate the Office of Patient Protection’s (OPP) approach to amending the regulations to align with the requirements under Chapter 177 of the Acts of 2022 but highlight two areas for which we request changes.

Section 3.302 – Medical Release Forms

Section 64 (a)(vii) of Chapter 177 of the Acts of 2022 requires health plans to establish a “procedure to accept an insured’s request for medical release forms by electronic means, which shall include delivery to a designated email address or access to an online consumer portal accessible by the insured, the insured’s family member or the insured’s authorized representative who can provide the insured’s membership identification number.” However, Section 3.302(2) of the proposed regulations directs carriers or utilization review organizations to “establish a process to deliver and accept the medical release form to the insured or the insured’s representative by electronic means, which shall include, but not be limited to, delivery to a designated email address and availability in an online consumer portal.”

The deviation in the regulatory language from the statutory language appears to require health plans to provide both email and electronic portal access for medical releases. While all health plans currently have member portals through which members can access important health plan information, the ability to send and receive documents through the member portal would require significant systems changes for health plans. Given the statutory language, we recommend the OPP amend the requirement under Section 3.302(2) to permit plans to “establish a process to deliver and accept the medical release form to the insured or the insured’s representative by electronic means, which shall include, but not be limited to, delivery to a designated email address or availability in an online consumer portal,” in line with the statutory intent.

Section 3.307 – Written Resolution of Internal Grievances

In a similar vein, Section 3.307(4) requires carriers or utilization review organizations to send written resolution of an internal grievance to the insured or the insured’s authorized representative, if any, by

certified or registered mail or other express carrier with proof of delivery. Section 64(b) of Chapter 177 of the Acts of 2022 directs carriers, for an expedited review process that “affirms the denial of coverage or treatment to provide the insured, within 2 business days of the decision, including **by any electronic means consented to by the insurer...**” We are requesting the OPP permit carriers or utilization review organizations to send written resolution of an internal grievance to an insured or an insured’s representative by email followed by a paper copy. This flexibility preserves the proof of delivery requirement envisioned in statute, while providing health plan members with an additional touchpoint for communication.

We appreciate your consideration of these recommendations. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth A. Leahy". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth A. Leahy, Esq.
Massachusetts Association of Health Plans