

March 9, 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 Point32Health, the parent organization of Harvard Pilgrim Health Care and Tufts Health Plan, we are writing to offer the following comments on the proposed amendments to 958 CMR 3.000 – the Health Insurance Consumer Protection regulations. 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. However, we make one suggestion on how to make the regulations more closely align with state statute.

958 CMR 3.309(1)(b) related to Expedited Internal Review of Adverse Determinations requires carriers to send a written resolution of an expedited internal review no later than 72 hours after receipt of the request. However, 958 CMR 3.310 goes on to allow carriers two business days from the date of the decision to send written notice affirming a denial. As drafted, the 72-hour written notice requirement set forth under 958 CMR 3.309(1)(b) appears to be inconsistent with the two-business day written notice requirement set forth in 958 CMR 3.310.

In addition, 958 CMR 3.309(1)(b) also appears to be inconsistent with Section 13 of M.G.L. Chapter 176O. Section 13 of M.G.L. Chapter 176O states that carriers must resolve an expedited internal review of a grievance within 72 hours for urgently needed services. Please note, the 72-hour requirement under the statute only speaks to a “resolution” and not written notice. Section 13 further states that if an expedited internal review affirms a denial for urgently needed services, the carrier must then provide the insured written resolution within two business days from the date of the decision. Point32Health interprets Section 13 as giving carriers up to 72 hours to perform (i.e. “resolve”) an expedited internal review of a grievance and an additional two business days from the date of the resolution to send written notice affirming a denial. Unlike 958 CMR 3.00, the statute does not require that written resolution of an expedited review of a grievance be sent within 72 hours from receipt of the request.

Given these inconsistencies, it is unclear what the deadline is for sending written notice of an expedited appeal decision. We suggest that 958 CMR 3.309 be amended to clarify that carriers have up to 72 hours to resolve an expedited internal review of a grievance and have 2 business days from the date of the decision to send written notice, as allowed in Section 13 of M.G.L. 176O.

We appreciate your consideration of this recommendation. Please contact me at any time if you have any questions.

Sincerely,

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