Exceptions and Appeals: Knowing Your Patients' Rights

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The Patient Protection and Affordable Care Act (ACA) established new protections allowing medical providers to challenge adverse health plan coverage decisions. *This fact sheet was created to help HIV providers assist their patients with these processes. Additional resources may be found at the end of this document.*

REQUESTING COVERAGE FOR NON-FORMULARY DRUGS - EXCEPTIONS

Each Qualified Health Plan available through the ACA marketplace is required to have an exceptions process to cover medications not included on plan formularies. **These exceptions must be requested by a medical provider.**

- ***Check with your contracted health insurers to learn how to request exceptions for non-formulary medications.***
- Be prepared to document that an exception for the requested drug is necessary, because drugs in the plan's formulary will not be equally effective, or because of harmful side effects or drug interactions associated with formulary medications.
- Plans are required to provide access to requested non-formulary medications while considering exceptions requests.
- Plans may grant exceptions, but can then require the highest level of cost sharing for non-formulary requested medications.
- You can initiate appeals to denied requests.

APPEALING A PLAN'S ADVERSE COVERAGE DECISION

The appeals processes described below apply to health plans available in individual and group health insurance markets *that were not in existence before March 23, 2010, or that have made significant changes to benefits or cost sharing since then.*

Internal Appeals at the Plan

Plans are required to have internal processes for patients to appeal service or treatment claim denials.

- Internal appeals processes vary by plan. ***Check with contracted plans to learn details of their appeals processes.***
- Internal appeals can be submitted up to 180 days after a denial notice.
- Medical providers can submit expedited appeals for urgent care requests. Plans are required to respond to expedited appeals as soon as possible, ***but no later than 72 hours*** after the request is submitted.
- Plans ***must respond within 30 days for non-urgent appeals for care that has not previously been received.***
- Plans ***must respond within 60 days for non-urgent appeals for care that has been received.***

- *Plans are generally required to continue coverage for previously approved care and treatment while an appeal is being considered.*
- Appeal denial notices must include the rationales on which claim rejections were based, as well as information on additional internal and external appeal processes and consumer assistance resources.

External Review by a Third-Party Independent Review Organization

If a plan denies an appeal it must provide information for requesting external review by an Independent Review Organization (IRO).

- Patients may submit external review requests up to four months after receiving health plans' internal appeal denial notices.
- Patients can appoint their medical providers or other representatives to file external review requests on their behalf.
- Additional information supporting external reviews may be submitted up to 5 days after initial request submissions.
- Expedited review requests for urgent care issues ***must be responded to within 72 hours.***
- Non-urgent requests ***must be responded to within 45 days.***

HELP WITH THE APPEALS PROCESS

Nearly half of the states have Consumer Assistance Programs available to help patients navigate appeals process. **Learn More**.

RESOURCES

This information was compiled from the resources noted below. Visit them to learn more.

Centers for Medicare and Medicaid Services
https://www.cms.gov/

Appealing Your Insurer's Decision Not To Pay
http://marketplace.cms.gov/getofficialresources/publications-and-articles/appealing-your-insurers-decision-not-to-pay.PDF

Consumer Assistance Programs
https://www.cms.gov/CCIIO/Resources/Consumer-Assistance-Grants/

Center for Consumer Information and Insurance Oversight ACA: Working with States to Protect Consumers
http://www.cms.gov/CCIIO/Resources/Files/external_appeals.html

U.S. Department of Labor - Internal Claims and Appeals and External Review Regulations and Guidance
http://www.dol.gov/ebsa/healthreform/regulations/internalclaimsandappeals.html

FamiliesUSA – Your Right to Appeal
http://www.familiesusa.org/health-reform-central/september-23/Your-Right-to-Appeal.pdf