

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 17:280
Contact Person: Abigail Gall
Phone: +1 (502) 564-6026
Email: abigail.gall@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities and the process for initiating and conducting external review of utilization review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of a covered person. This emergency administrative regulation amends an existing regulation.

(b) The necessity of this administrative regulation: KRS 304.17 A-629 requires the commissioner to promulgate administrative regulations regarding the independent external review program and to provide forms for external review.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110(1), authorizes that the Commissioner may promulgate administrative regulations to aid in effectuation of the Insurance Code. KRS 304.17 A-629 requires the Commissioner to promulgate administrative regulations regarding independent external review program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes insurer requirements, procedures for the certification of independent review entities, and the process for initiating and conducting external review of utilization review decisions. It also establishes disclosure requirements of the external review process to be included in the health benefit plan issued at enrollment of a covered person.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation includes incorporating forms that were once incorporate in 806 KAR 17:005, requirements for reviews to provide the DOI an explanation of reprocessed benefits or payment documenting showing the implementation of said decision of review, update the DOI's utilization review branch email address throughout the regulation, and require the independent review entity to provide the department a listing of reviewers in accordance with KRS 304.17A-627(5) and (6). The other amendments made to this regulation are to adhere to the drafting requirements set forth in Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: These amendments are necessary to comply with KRS 304.17A-629, as well as KRS Chapter 13A.

(c) How the amendment conforms to the content of the authorizing statutes: KRS Chapter 13A requires specific drafting requirements for administrative regulation, and these amendments adhere to those set forth. KRS 304.17A-629 requires the Commissioner to promulgate administrative regulations regarding independent external review program.

(d) How the amendment will assist in the effective administration of the statutes: The amendments concerning drafting requirements of Chapter 13A are to ensure readability and efficacy of administrative regulations. The amendments concerning KRS 304.17A-629 alter the regulation to better comply with internal changes within the Department and outside entities interested and effected by this administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This will affect consumers, insurers offering a health benefit plan in Kentucky, and the procedures to be followed by an independent review entity.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Insurers that follow under this regulation will need to utilize the newly incorporated forms to adhere to the processes set forth in this administrative regulations and relative statutes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no expected cost associated with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance the regulated entities will meet to statutory requirements of the external utilization review.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this regulation applies equally to all health insurers offering health benefit plans in Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 17:290
Contact Person: Abigail Gall
Phone: +1 (502) 564-6026
Email: abigail.gall@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department as the implementer.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.17A-629

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. There is no fiscal impact known to be associated with this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation:

SUMMARY OF MATERIAL INCOPORATED BY REFERENCE

806 KAR 17:290

(a) Form HIPMC-IRE-1, “Application for Certification of an Independent Review Entity, 09/2020 edition, this form application form that shall be used to make application for certification as an Independent Review Entity (IRE) to conduct external reviews of disputes between covered persons and health benefit plans in Kentucky. An Applicant shall complete all applicable sections of the application and provide all necessary documentation as evidence of compliance with KRS 304.17A-621 through 304.17A-631, and 806 KAR 17: 290, as applicable.;

(b) Form HIPMC-IRE-2, “Assignment of Independent Review Entity Form”, 09/2020 edition This form is to be used by an Insurer or its designee to report the assignment of an external review (ER) to an independent review entity (IRE). This form is to be emailed to the Division of the Health Insurance Policy and Managed Care, Utilization Review Registration and Appeals Branch at DOI.UtilizationReview@ky.gov within one business day of assignment. ;

(c) Form HIPMC-IRE-3, “External Review Decision Notification Form”, 09/2020 edition, This form is to be used by an Independent Review Entity (IRE) to report external review (ER) decisions. The completed form must be sent to the insurer or private review and forwarded via email to DOI.UtilizationReview@ky.gov within two (2) business days of rendering a decision.;

(d) Form HIPMC-IRE-4, “Annual Independent Review Entity Report Form”, 09/2020 edition, this form is the reporting form for annual independent review entities;

(e) Form HIPMC-IRE-5, “Approval of Excess Review Fee”, 09/2020 edition this form serves as an explanatory notice of approval process of an external review fee in excess of \$800; and

(f) Form HIPMC-IRE-6, “External Review Information Face Sheet”, 09/2020 edition This form is for use by the insurer or private review agent assigning the external review. The completed form shall accompany the information identified on page 2 submitted to the Independent Review Entity (IRE).