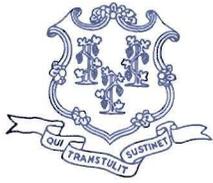


SECTION 1: COMMISSIONER'S LETTER



STATE OF CONNECTICUT  
INSURANCE DEPARTMENT

Via Hand Delivery

July 12, 2012

Legislative Regulation Review Committee  
Room 011  
State Capitol  
Hartford, CT 06106  
Attention: Pamela Booth, Administrator

Re: Proposed Regulation Concerning Utilization Review, Grievances and External Appeals

Dear Senator Roraback, Representative Davis, and Committee Members:

In accordance with section 4-170 of the Connecticut General Statutes, the Connecticut Insurance Department hereby submits the original of the above-referenced proposed regulation bearing the approval of the Attorney General as to legal sufficiency, together with eighteen copies of the approved original and final fiscal note prepared in the format mandated by your Committee on April 16, 1986. Please note that no public hearing was held on this regulation.

Connecticut Public Act No. 11-58 effective July 1, 2011, repealed Conn. Gen. Stat. §§ 38a-226 *et seq*, 38a-478m, 38a-478n and 38a-478p and by implication the corresponding regulations., R.C.S.A. §§38a-226-1 *et seq*; 38a-478m-1; 38a-478n-1 *et seq*. and established the new statutes needed to bring the state internal and external review process into compliance with the requirements set forth in The Patient Protection and Affordable Care Act, Pub.L.111-48, as amended by the Health Care and Education Reconciliation Act of 2010, Pub.L.111-152 (collectively "PPACA"). The purpose of these regulations is to replace the regulations repealed by implication.

On March 21, 2012, the regulations were approved by the Office of Attorney General as to legal sufficiency. On June 26, 2012, the Legislative Regulation Review Committee rejected the proposed regulation without prejudice. Substantive and technical corrections have been made to the proposed regulation in accordance with the comments of the Legislative Commissioner's Office. On July 6, 2012, the revised regulations were approved by the Office of the Attorney General as to legal sufficiency.

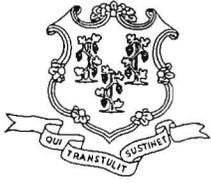
As always, if you have any questions concerning this proposed regulation please do not hesitate to call me or Beth Cook, Counsel at 860-297-3812. Thank you for your anticipated assistance and cooperation in this matter.

Sincerely,

Thomas B. Leonardi  
Insurance Commissioner

Attachment

Cc: Beth Cook, Esq.  
Jon Arsenaault, Esq.  
Debra Korta



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

### UTILIZATION REVIEW, GRIEVANCES AND APPEALS

#### STATEMENT OF CHANGES

##### **Substantive Concerns:**

1. The following language has been deleted. Section 38a-591-10(a) of the regulation states, in part: "Selection of an independent review organization shall include, but not be limited to the criteria set forth in section 38a-591l of the Connecticut General Statutes...".
2. Section 38a-591-8(c) of the regulation has been deleted.

##### **Technical Corrections:**

1. On page 1, in line 1 of section 38a-591-1(b), "for licensure" has been inserted after "Applications", for clarity.
2. On page 1, in line 1 of section 38a-591-1(c), "application fee must" has been changed to "annual license fee shall", for accuracy and proper form in accordance with the committee's directive concerning mandates, and "Treasurer - State of Connecticut" has been enclosed by quotation marks, for proper form.
3. On page 2, in line 2 of section 38a-591-3(a)(7), the "to" before "termination" has been deleted, for proper form.
4. On page 2, in line 1 of section 38a-591-4, "appeals" has been changed to "grievances", for consistency; in line 2, "appeals" has been changed to "reviews of adverse determinations", for consistency; in line 1 of subdivision (1) of said section, "appeal" has been changed to "grievance", for consistency; in line 2 of subdivision (2) of said section, "appeal" has been changed to "grievance", for consistency; and in line 1 of subdivision (4) of said section, "enrollee" has been changed to "covered person or the covered person's authorized representative", for consistency.
5. On page 3, in line 1 of section 38a-591-6, "shall, at his discretion" has been changed to "may", for proper form.
6. On page 3, in line 2 of section 38a-591-7(b), a comma should be inserted after "requests", for proper form, and "June 2012" has been changed to September 1, 2012 to specify a specific date that will reflect the anticipated effective date of the regulation.
7. On page 3, in line 1 of section 38a-591-8(a), "required to submit notices" has been changed to "that submits" for accuracy; in line 5 of said section, "an expedited request" has been changed to "requesting an expedited review", for consistency; and in line 6, "or" has been changed to "and", for accuracy.
8. On page 3, in line 1 of section 38a-591-8(b), "required to submit notices" has been changed to "that submits a notice" for accuracy; in lines 3 and 6 of said section, "Adverse Determination" has been changed to "adverse determination", for proper form; in line 5 of said section, "an expedited request" has been changed to "requesting an expedited review" for consistency; in line 8 of said section, "must" has been changed to "shall", for proper form; in line 9 of said section, "or" has been changed to "and" for accuracy; in line 10 of said section, "a" has been inserted before "consumer", for proper form and "to the external

review process" has been inserted after "guide", for clarity; lines 11 to 13, inclusive, of said section has been changed to "commissioner shall develop and make available to health carriers the external review application and consumer guide. A"; and in line 15 of said section, "the covered person" has been changed to "a covered person" for accuracy.

9. On page 4, in line 1 of section 38a-591-9, "Group health plans, or health insurance issuers offering group or individual health insurance" has been changed to "Health carriers", for consistency; in line 2, "coverage," and "individual" have been deleted, for consistency; in line 3, "market participant, primary subscriber" have been changed to "covered person", for consistency; and in lines 5 and 6 of said section, "Rescissions and eligibility denials shall be considered to be adverse determinations for purposes of internal and external claim review." has been deleted since it paraphrases statutory language.

10. On page 4, in line 3 of section 38a-591-10(a), "of appeals" has been deleted since it is unnecessary.

11. On page 4, in line 1 of section 38a-591-10(b), "the independent" has been changed to "an independent", for proper form; and in line 5, "reserves the right to" has been changed to "may", for proper form.

12. On page 4, in line 1 of section 2 of the regulation, "38a-226-1" and "38a-226-10" Have been changed to "38a-226c-1" and "38a-226c-10", respectively, for accuracy.

**EXHIBIT I**

# The Connecticut General Assembly

## Legislative Regulation Review Committee

Senator Andrew Roraback  
*Co-Chair*



Representative Paul Davis  
*Co-Chair*

June 27, 2012

Subject: Proposed Regulation 2012-015

Thomas B Leonardi, Commissioner  
Department of Insurance  
P.O. Box 816  
Hartford, CT 06106-0816

Dear Commissioner Leonardi:

### **Proposed Regulation**

2012-015 **Department of Insurance** "UTILIZATION REVIEW, GRIEVANCES AND EXTERNAL APPEALS" The Regulations of Connecticut State Agencies is amended by adding Sections 38a-591-1 through 38a-591-11, inclusive

The above captioned regulation was **LRRC - Rejected Without Prejudice** by the Legislative Regulation Review Committee on 6/26/2012. The action was based on the recommendations of the Legislative Commissioners' Office. The necessary corrections are listed on the attached pages.

The regulation should be corrected and then resubmitted to the Legislative Regulation Review Committee with a summary of the changes listed by paragraph. If this is a mandated regulation then the regulation must be resubmitted to this office no later than the 1<sup>st</sup> Tuesday of the second month following the regulation's rejection.

Sincerely,

Handwritten signature of Pamela B. Booth in cursive.

Pamela B. Booth, Administrator  
Legislative Regulation Review Committee

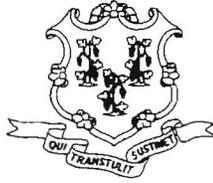
Enclosures (2)

# The Connecticut General Assembly

## Legislative Commissioners' Office

Edwin J. Maley, Jr.  
*Commissioner*  
William A. Hamzy  
*Commissioner*

Larry G. J. Shapiro  
*Director*



Legislative Office Building  
Suite 5500  
Hartford, Connecticut  
06106-1591  
(860) 240-8410  
fax (860) 240-8414  
e-mail: lco@cga.ct.gov

## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** June 26, 2012

<b>Regulation No:</b>	2012-15
<b>Agency:</b>	Insurance Department
<b>Subject Matter:</b>	Utilization Review, Grievances and External Appeals
<b>Statutory Authority:</b> (copy attached)	38a-591i

	Yes or No
Mandatory	Y
Federal Requirement	N
Permissive	N

### For the Committee's Information:

#### Substantive Concerns:

1. Section 38a-591-10(a) of the regulation states, in part: "Selection of an independent review organization shall include, but not be limited to the criteria set forth in section 38a-591i of the Connecticut General Statutes...". Section 38a-591i of the Connecticut General Statutes does not use similar language nor does it authorize the Insurance Commissioner to expand the criteria for selecting an independent review organization beyond what is provided in the statute.

2. Section 38a-591-8(c) of the regulation states: "For purposes of triggering any internal or external review periods, notice shall be deemed to have been given to the covered person or the covered person's authorized representative three (3) calendar days after the notice is put into the possession of the postal service." It is unclear what is meant by "triggering any internal or external review periods"; the Connecticut General Statutes Sections 38a-591d to 38a-591g, inclusive, provide a number of timeframes for responses by a health carrier or a covered person that appear to conflict with this requirement (for example, Connecticut General Statutes Section 38a-591e(b)(1) permits a covered person or covered person's representative to file a grievance not later than 180 days after such person or representative **receives** an adverse determination notice). (Emphasis added.)

### **Technical Corrections:**

1. On page 1, in line 1 of section 38a-591-1(b), "for licensure" should be inserted after "Applications", for clarity.
2. On page 1, in line 1 of section 38a-591-1(c), "application fee must" should be "annual license fee shall", for accuracy and proper form in accordance with the committee's directive concerning mandates, and "Treasurer - State of Connecticut" should be enclosed by quotation marks, for proper form.
3. On page 2, in line 2 of section 38a-591-3(a)(7), the "to" before "termination" should be deleted, for proper form.
4. On page 2, in line 1 of section 38a-591-4, "appeals" should be "grievances", for consistency; in line 2, "appeals" should be "reviews of adverse determinations", for consistency; in line 1 of subdivision (1) of said section, "appeal" should be "grievance", for consistency; in line 2 of subdivision (2) of said section, "appeal" should be "grievance", for consistency; and in line 1 of subdivision (4) of said section, "enrollee" should be "covered person or the covered person's authorized representative", for consistency.
5. On page 3, in line 1 of section 38a-591-6, "shall, at his discretion" should be "may", for proper form.
6. On page 3, in line 2 of section 38a-591-7(b), a comma should be inserted after "requests", for proper form, and "June 2012" should be changed to specify a specific date that will reflect the anticipated effective date of the regulation.
7. On page 3, in line 1 of section 38a-591-8(a), "required to submit notices" should be "that submits" for accuracy; in line 5 of said section, "an expedited request" should be "requesting an expedited review", for consistency; and in line 6, "or" should be "and", for accuracy.
8. On page 3, in line 1 of section 38a-591-8(b), "required to submit notices" should be "that submits a notice" for accuracy; in lines 3 and 6 of said section, "Adverse Determination" should be "adverse determination", for proper form; in line 5 of said section, "an expedited request" should be "requesting an expedited review" for consistency; in line 8 of said

section, "must" should be "shall", for proper form; in line 9 of said section, "or" should be "and" for accuracy; in line 10 of said section, "a" should be inserted before "consumer", for proper form and "to the external review process" should be inserted after "guide", for clarity; lines 11 to 13, inclusive, of said section should be "commissioner shall develop and make available to health carriers the external review application and consumer guide. A"; and in line 15 of said section, "the covered person" should be "a covered person" for accuracy.

9. On page 4, in line 1 of section 38a-591-9, "Group health plans, or health insurance issuers offering group or individual health insurance" should be "Health carriers", for consistency; in line 2, "coverage," and "individual" should be deleted, for consistency; in line 3, "market participant, primary subscriber" should be "covered person", for consistency; and in lines 5 and 6 of said section, "Rescissions and eligibility denials shall be considered to be adverse determinations for purposes of internal and external claim review." should be deleted since it paraphrases statutory language.

10. On page 4, in line 3 of section 38a-591-10(a), "of appeals" should be deleted since it is unnecessary.

11. On page 4, in line 1 of section 38a-591-10(b), "the independent" should be "an independent", for proper form; and in line 5, "reserves the right to" should be "may", for proper form.

12. On page 4, in line 1 of section 2 of the regulation, "38a-226-1" and "38a-226-10" should be "38a-226c-1" and "38a-226c-10", respectively, for accuracy.

**Recommendation:**

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</p>
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**Reviewed by:** Kumi Sato / Bradford M. Towson

**Date:** June 13, 2012

**Sec. 38a-591i. Regulations.** The commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of sections 38a-591a to 38a-591m, inclusive.