



General Assembly

January Session, 2015

Committee Bill No. 415

LCO No. 3302



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

**AN ACT CONCERNING DISPENSATION AND COVERAGE OF A
PRESCRIBED DRUG FOR A CHRONIC DISEASE DURING CERTAIN
ADVERSE DETERMINATION REVIEWS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (b) of section 38a-591d of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2016*):

4 (b) With respect to a nonurgent care request:

5 (1) (A) For a prospective or concurrent review request, a health
6 carrier shall make a determination within a reasonable period of time
7 appropriate to the covered person's medical condition, but not later
8 than fifteen calendar days after the date the health carrier receives such
9 request, and shall notify the covered person and, if applicable, the
10 covered person's authorized representative of such determination,
11 whether or not the carrier certifies the provision of the benefit.

12 (B) If the review under subparagraph (A) of this subdivision is a
13 review of a grievance involving a concurrent review request, pursuant
14 to 45 CFR 147.136, as amended from time to time, the treatment shall

15 be continued without liability to the covered person until the covered
16 person has been notified of the review decision.

17 (C) (i) If the review under subparagraph (A) of this subdivision is a
18 review of a grievance involving a prospective review request relating
19 to the dispensing of a drug for a chronic disease, other than a schedule
20 II or III controlled substance, that is prescribed by a licensed
21 participating provider who is a specialist in such chronic disease, the
22 health carrier shall issue an electronic authorization to the covered
23 person's pharmacy for the dispensing of a temporary supply of such
24 drug sufficient for the duration of such review until the covered
25 person has been notified of the review decision. Such authorization
26 shall include confirmation of the availability of payment for such
27 supply of such drug.

28 (ii) Not later than twenty-four hours after the health carrier has
29 issued such authorization to the pharmacy and prior to the pharmacy's
30 dispensation of such drug, such health carrier shall confirm with such
31 participating provider the provider's concurrence with the dispensing
32 of such temporary supply of such drug. If such participating provider
33 does not concur, the health carrier shall cancel such authorization.

34 (iii) The provisions of this subparagraph shall not apply to a
35 grievance or review of an adverse determination under this section
36 concerning the substitution of a generic drug or another brand name
37 drug for a prescribed brand name drug unless the prescribing licensed
38 participating provider has specified that there shall be no substitution
39 for the specified brand name drug.

40 (2) For a retrospective review request, a health carrier shall make a
41 determination within a reasonable period of time, but not later than
42 thirty calendar days after the date the health carrier receives such
43 request.

44 (3) The time periods specified in subdivisions (1) and (2) of this
45 subsection may be extended once by the health carrier for up to fifteen

46 calendar days, provided the health carrier:

47 (A) Determines that an extension is necessary due to circumstances
48 beyond the health carrier's control; and

49 (B) Notifies the covered person and, if applicable, the covered
50 person's authorized representative prior to the expiration of the initial
51 time period, of the circumstances requiring the extension of time and
52 the date by which the health carrier expects to make a determination.

53 (4) (A) If the extension pursuant to subdivision (3) of this subsection
54 is necessary due to the failure of the covered person or the covered
55 person's authorized representative to provide information necessary to
56 make a determination on the request, the health carrier shall:

57 (i) Specifically describe in the notice of extension the required
58 information necessary to complete the request; and

59 (ii) Provide the covered person and, if applicable, the covered
60 person's authorized representative with not less than forty-five
61 calendar days after the date of receipt of the notice to provide the
62 specified information.

63 (B) If the covered person or the covered person's authorized
64 representative fails to submit the specified information before the end
65 of the period of the extension, the health carrier may deny certification
66 of the benefit requested.

67 Sec. 2. Subsection (c) of section 38a-591e of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective*
69 *January 1, 2016*):

70 (c) (1) (A) When conducting a review of an adverse determination
71 under this section, the health carrier shall ensure that such review is
72 conducted in a manner to ensure the independence and impartiality of
73 the clinical peer or peers involved in making the review decision.

74 (B) If the adverse determination involves utilization review, the
75 health carrier shall designate an appropriate clinical peer or peers to
76 review such adverse determination. Such clinical peer or peers shall
77 not have been involved in the initial adverse determination.

78 (C) The clinical peer or peers conducting a review under this section
79 shall take into consideration all comments, documents, records and
80 other information relevant to the covered person's benefit request that
81 is the subject of the adverse determination under review, that are
82 submitted by the covered person or the covered person's authorized
83 representative, regardless of whether such information was submitted
84 or considered in making the initial adverse determination.

85 (D) Prior to issuing a decision, the health carrier shall provide free
86 of charge, by facsimile, electronic means or any other expeditious
87 method available, to the covered person or the covered person's
88 authorized representative, as applicable, any new or additional
89 documents, communications, information and evidence relied upon
90 and any new or additional scientific or clinical rationale used by the
91 health carrier in connection with the grievance. Such documents,
92 communications, information, evidence and rationale shall be
93 provided sufficiently in advance of the date the health carrier is
94 required to issue a decision to permit the covered person or the
95 covered person's authorized representative, as applicable, a reasonable
96 opportunity to respond prior to such date.

97 (2) If the review under subdivision (1) of this subsection is an
98 expedited review, all necessary information, including the health
99 carrier's decision, shall be transmitted between the health carrier and
100 the covered person or the covered person's authorized representative,
101 as applicable, by telephone, facsimile, electronic means or any other
102 expeditious method available.

103 (3) If the review under subdivision (1) of this subsection is an
104 expedited review of a grievance involving an adverse determination of
105 a concurrent review request, pursuant to 45 CFR 147.136, as amended

106 from time to time, the treatment shall be continued without liability to
 107 the covered person until the covered person has been notified of the
 108 review decision.

109 (4) (A) If the review under subdivision (1) of this subsection is a
 110 review of a grievance involving a prospective review request relating
 111 to the dispensing of a drug for a chronic disease, other than a schedule
 112 II or III controlled substance, that is prescribed by a licensed
 113 participating provider who is a specialist in such chronic disease, the
 114 health carrier shall issue an electronic authorization to the covered
 115 person's pharmacy for the dispensing of a temporary supply of such
 116 drug sufficient for the duration of such review until the covered
 117 person has been notified of the review decision. Such authorization
 118 shall include confirmation of the availability of payment for such
 119 supply of such drug.

120 (B) Not later than twenty-four hours after the health carrier has
 121 issued such authorization to the pharmacy and prior to the pharmacy's
 122 dispensation of such drug, such health carrier shall confirm with such
 123 participating provider the provider's concurrence with the dispensing
 124 of such temporary supply of such drug. If such participating provider
 125 does not concur, the health carrier shall cancel such authorization.

126 (C) The provisions of this subdivision shall not apply to a grievance
 127 or review of an adverse determination under this section concerning
 128 the substitution of a generic drug or another brand name drug for a
 129 prescribed brand name drug unless the prescribing licensed
 130 participating provider has specified that there shall be no substitution
 131 for the specified brand name drug.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2016	38a-591d(b)
Sec. 2	January 1, 2016	38a-591e(c)

INS *Joint Favorable*