ADOPTED REGULATION OF THE

COMMISSIONER OF INSURANCE

LCB File No. R132-03

Effective April 16, 2004

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §§1-3, NRS 679B.130; §4, NRS 679B.130 and 695G.055.

A REGULATION relating to health insurance; revising conditions that certain insurers issuing health care plans must demonstrate to obtain approval of a system for resolving complaints of insureds; revising the notification that a prepaid limited health service organization shall provide to an enrollee if the organization denies coverage; and providing other matters properly relating thereto.

Section 1. NAC 695F.610 is hereby amended to read as follows:

695F.610 To obtain approval of a system for resolving complaints of enrollees concerning limited health services covered by an organization from the Commissioner as required pursuant to NAC 695F.600, an organization must:

1. Demonstrate that the system will resolve oral and written complaints concerning:

(a) Payment or reimbursement for covered limited health services;

(b) The availability, delivery or quality of covered limited health services, including, without limitation, adverse determinations made pursuant to utilization review; and

(c) The terms and conditions of the evidences of coverage of enrollees.

2. ***If the organization issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, demonstrate that the system will include the external review of a final adverse determination.***

3. Submit to the Division:

(a) The name and title of the employee responsible for the system;

(b) A description of the procedure used to notify an enrollee of the decision regarding his complaint; and

(c) A copy of the explanation of rights and procedures which is to be provided to enrollees pursuant to NAC 695F.620.

Sec. 2. NAC 695F.620 is hereby amended to read as follows:

695F.620 1. ~~[Following]~~ ***After*** approval by the Commissioner, each organization that issues an evidence of coverage in this state shall provide ***a*** written notice to an enrollee, in clear and comprehensible language that is understandable to an ordinary layperson, explaining the right of the enrollee to file a written complaint. Such ***a*** notice must be provided to an enrollee:

(a) At the time he receives his evidence of coverage;

(b) Any time that the organization denies coverage of a limited health service or limits coverage of a limited health service to an enrollee; and

(c) Any other time deemed necessary by the Commissioner.

2. ~~[Any time that]~~ ***If*** an organization denies coverage of a limited health service to an enrollee, it shall notify the enrollee in writing of:

(a) The reason for denying coverage of the limited health service;

(b) The criteria by which the organization determines whether to authorize or deny coverage of the limited health service; ~~[and]~~

(c) His right to file a written complaint ~~[.]~~ ***and the procedure for filing such a complaint;***

(d) If the organization issues any evidence of coverage that provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, his right to:

(1) Appeal a final adverse determination pursuant to NRS 695G.200 to 695G.310, inclusive;

(2) Receive an expedited external review of a final adverse determination if the managed care organization receives proof from the insured's provider of health care that failure to proceed in an expedited manner may jeopardize the life or health of the insured, including notification of the procedure for requesting the expedited external review; and

(3) Receive assistance from any person, including an attorney, for an external review of a final adverse determination; and

(e) The telephone number of the Office for Consumer Health Assistance.

3. A written notice which is approved by the Commissioner shall be deemed to be in clear and comprehensible language that is understandable to an ordinary layperson.

Sec. 3. NAC 695G.100 is hereby amended to read as follows:

695G.100 To obtain approval of a system for resolving complaints of insureds from the Commissioner as required pursuant to NRS 695G.200, a managed care organization must ~~[submit]~~ ***:***

1. Demonstrate that the system will include the external review of a final adverse determination.

2. Submit to the Division:

~~[1.]~~ ***(a)*** The name and title of the employee responsible for the system;

~~[2.]~~ ***(b)*** A description of the procedure used to notify an insured of the decision regarding his complaint; and

~~[3.]~~ ***(c)*** A copy of the explanation of rights and procedures which is to be provided to insureds pursuant to NRS 695G.230.

Sec. 4. NAC 695C.055 is hereby repealed.

TEXT OF REPEALED SECTION

695C.055 "Medically necessary" defined. "Medically necessary" means services determined by an organization to be appropriate and necessary and required, not merely for the sake of convenience, according to generally accepted principles of medical practice, for the diagnosis or direct care and treatment of an illness or injury.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R132-03

The Commissioner of Insurance adopted regulations assigned LCB File No. R132-03 which pertain to chapters 695C, 695F and 695G of the Nevada Administrative Code on March 8, 2004.

Notice date: 9/2/2003 **Date of adoption by agency:** 3/8/2004
Hearing date: 10/2/2003 **Filing date:** 4/16/2004

INFORMATIONAL STATEMENT

A hearing was held on October 2, 2003, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning complaints.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by 22 individuals. Ms. Kimberly K. Everett, representing the Division, provided oral testimony. Ms. Everett testified that the intent of the regulation was to amend NAC 695F and NAC 695G to require Prepaid Limited Health Services Organizations (PLHSO) and Managed Care Organizations to include external review of a final adverse determination in their complaint system. Ms. Everett briefed the LCB changes made to the proposed regulation. There were no other speaking participants. The Division received no written testimony. Ms. Everett briefed that there was one recommendation made during the workshop to the Proposed Regulation, LCB File No. 132-03, dated September 30, 2003. A revised version of the regulation is attached. The revision amends NAC 695F.610 for clarification. The Commissioner has issued an order adopting the regulation, as revised pursuant to the workshop and hearing, as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation is revised as follows:

1. Subsection 2 of section 12 is amended to read as follows:

2. ***Carriers subject to chapter 695G must*** ~~[D]~~***d***emonstrate that the system will include the external review of a final adverse determination.

The economic impact of the regulation is as follows:

(a) <u>On the business it is to regulate:</u> Each insurer must file with the Division their system for resolving complaints and demonstrate that the system includes external review of a final adverse determination.

(b) <u>On the public:</u> The regulation will have a negligible economic impact on the public.

The Division anticipates a nominal expense to enforce the proposed regulation.

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **03.690**
LCB File No. R132-03

REGULATION RELATING TO REINSURANCE.
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SUMMARY OF PROCEEDINGS AND ORDER

SUMMARY OF PROCEEDINGS

A public workshop and hearing, as required by NRS 233B.061, on the proposed regulation relating to complaints, was held before Alice A. Molasky-Arman, Commissioner of Insurance (Commissioner), on October 2, 2003, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The regulation is proposed under the authority of §§ 1-3, NRS 679B.130 and section 2 of Assembly Bill No. 79 of the 72nd Session of the Nevada Legislature, chapter 138, Statutes of Nevada 2003, at page 722; §4, NRS 679B.130 and section 20 of Assembly Bill No. 79 of the 72nd Session of the Nevada Legislature, chapter 138, Statutes of Nevada 2003, at page 779.

The hearing was attended by 22 individuals. Ms. Kimberly K. Everett, representing the Division, provided oral testimony. There were no other speaking participants. The Division did not receive any written comments.

Ms. Everett testified that the intent of the regulation was to amend chapters 695F and 695G of the Nevada Administrative Code (NAC) to require prepaid limited health service organization and managed care organizations to include external review of a final adverse determination in their compliant system. Ms. Everett briefed the LCB changes made to the proposed regulation. Ms. Everett testified that during the workshop it was recommended to

amend subsection 2 of section 1 of the proposed regulation to clarify that this regulation was applicable to managed care organizations.

Subsection 2 of section 12 is amended to read as follows:

2. ***Carriers subject to chapter 695G must*** ~~[D]~~***d***emonstrate that the system will include the external review of a final adverse determination.

Commissioner Molasky-Arman asked if there were any comments. Being none, she directed the staff to prepare the informational statement letter and the order adopting this regulation as amended.

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning complaints, LCB File No. R132-03, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this 8th day of March, 2004.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance