



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
AGENCY BUILDING ONE  
EMPIRE STATE PLAZA  
ALBANY, NY 12257

**Circular Letter No. 9 (1998)**  
**May 7, 1998**

**TO: ALL INSURERS LICENSED TO WRITE ACCIDENT & HEALTH  
INSURANCE IN NEW YORK STATE AND ARTICLE 43  
CORPORATIONS (EXCLUDING HEALTH MAINTENANCE  
ORGANIZATIONS)**

**RE: MANAGED CARE GRIEVANCE AND UTILIZATION REVIEW APPEAL  
DATA**

Chapter 705 of the Laws of 1996 (the Managed Care Reform Act) includes provisions regarding grievance and utilization review appeal procedures, while §210(b) of the New York State Insurance Law mandates that insurers report grievance and utilization review appeal data to this Department.

Specifically, the Managed Care Reform Act added §4802(a) to the New York State Insurance Law to require insurers that offer a "managed care product" to establish and maintain a grievance procedure with regard to such a product. A "managed care product" is defined under §4801(c) of the Insurance Law. (See page three for definition.) The requirement mirrors a mandate for HMOs under §4408-a of the Public Health Law.

In addition, the Managed Care Reform Act added a new Article 49 to the New York State Insurance Law. Article 49 establishes utilization review (UR) standards and reporting requirements for UR agents. Utilization review is generally defined as the review to determine whether health care services are medically necessary. It includes prospective, concurrent and retrospective review. The Article 49 standards for utilization review include an appeals process for adverse determinations.

UR agents required to report to the Superintendent are those insurers subject to Article 32 (*i.e.*, those insurers licensed to write accident and health insurance) or Article 43 of the Insurance Law that are performing UR. In addition, any independent UR agent performing UR under contract with such an insurer is required to report. Circular Letter No. 7 (1997) informed all accident and health insurers (except HMOs) of the reporting requirements for UR agents under Article 49 of the Insurance Law. Article 49 describes utilization review procedures applicable to insurers licensed to write accident and health insurance and Article 43 corporations. It does not apply to HMOs. Utilization reviews are conducted in conjunction with contracts that include medical necessity requirements. A medical necessity requirement could be included in a comprehensive, expense-reimbursed health insurance contract as well as a managed care insurance contract.

The grievance and utilization review provisions of Chapter 705 took effect on April 1, 1997 for certain policies and contracts issued, renewed, modified, altered, or amended on or after that date.

As mentioned above, the Department is required by §210(b) of the Insurance Law to include data on grievances and on appeals from utilization review determinations in its annual health insurance complaint ranking. The same section of the Insurance Law requires insurers to provide such data on grievances and appeals of utilization review determinations to the Department. Pages 4 and 5 of this Circular Letter contain a questionnaire soliciting information necessary to comply with the new law. It should be completed by all companies writing accident and health insurance and Article 43 companies. (HMOs are excluded because they supplied similar data via Schedule M of the New York Data Requirements for HMOs.)

Please complete the questionnaire on pages four and five and return to Wayne Cotter, Director of Research, New York State Insurance Department, 25 Beaver St., New York, NY 10004 by **June 12, 1998**. Questions can be directed to Mr. Cotter at (212) 480-2285.

Any utilization review agents (including companies) required to file the report mandated by Section 4901 of the Insurance Law and described in Section VII of Circular Letter No. 7 (1997), issued March 25, 1997, that have not yet filed the report are requested to send it to H. Stanley Kaltenborn, Health Bureau, New York State Insurance Department, Agency Building 1, Empire State Plaza, Albany, NY 12257.

Very truly yours,

John Calagna  
Public Affairs & Research Bureau

attachments

*Section 4801(c) of the New York Insurance Law defines "managed care health insurance contract" or "managed care product" as follows:*

a "managed care health insurance contract" or "managed care product" shall mean a contract which requires that all medical or other health care services covered under the contract, other than emergency care services, be provided by, or pursuant to a referral from, a designated health care provider chosen by the insured (i.e. a primary care gatekeeper), and that services provided pursuant to such a referral be rendered by a health care provider participating in the insurer's managed care provider network. In addition, in the case of (i) an individual health insurance contract, or (ii) a group health insurance contract covering no more than three hundred lives, imposing a coinsurance obligation of more than twenty-five percent upon services received outside of the insurer's provider network, and which has been sold to five or more groups, a managed care product shall also mean a contract which requires that all medical or other health care services covered under the contract, other than emergency care services, be provided by, or pursuant to a referral from, a designated health care provider chosen by the insured (i.e. a primary care gatekeeper), and that services provided pursuant to such a referral be rendered by a health care provider participating in the insurer's managed care provider network, in order for the insured to be entitled to the maximum reimbursement under the contract.

[Click here for Grievance and Review Questionnaire in PDF format](#)

## GRIEVANCE AND UTILIZATION REVIEW APPEAL QUESTIONNAIRE

Company Name: \_\_\_\_\_ 5-digit NAIC Company Code: \_\_\_\_\_

Contact: \_\_\_\_\_ Telephone: \_\_\_\_\_

Date: \_\_\_\_\_

1) In the period April 1 - Dec. 31 1997, did the company write any managed care contracts or products as defined in §4801(c) of the New York State Insurance Law ? (See previous page for §4801(c) definition.)

**NOTE:** Exclude HMO or *HMO line-of-business products*. Yes \_\_\_\_\_ No \_\_\_\_\_

**If the answer to #1 above is NO, skip to question 5**

For **managed care contracts** as defined in §4801(c) of the Insurance Law:

2) Approximate number of persons covered by such contracts with your company in the State of New York on: 6/30/97 \_\_\_\_\_; 12/31/97 \_\_\_\_\_

3) Direct Premium Written for managed care contracts by your company in the State of New York in calendar year 1997 \_\_\_\_\_.

4) Please provide the number of Grievances and Utilization Review Appeals for Managed Care accident and health care products written by your company in the State of New York:

	(1) Grievances per §4802 of the Insurance Law *	(2) Pre-§4802/4904 Complaints**	(3) Utilization Review Appeals per §4904 of the Insurance Law*
a) Number filed in 1997			
b) Number closed in 1997 (whether filed in 1997 or not)			
c) Number closed in 1997 resulting in a REVERSAL (in whole or in part) of insurer's original determination			
d) Number closed in 1997 in which the insurer's original determination was UPHELD			
e) Number filed in 1997 that were PENDING on 12/31/97			

\*Sections 4802 and 4904 were effective April 1, 1997 and apply to all contracts issued, renewed, modified, altered, or amended on or after that date.

\*\*Complaints that were filed or closed prior to the implementation of §4802 of the Insurance Law.

For accident and health insurance contracts (as defined under Section 1113(a)(3) of the Insurance Law) **other than managed care contracts** and Article 43 contracts **other than managed care contracts**:

5) Approximate number of persons covered by such contracts with your company in the State of New York on: 6/30/97 \_\_\_\_\_; 12/31/97 \_\_\_\_\_.

6) Direct Premium Written for such contracts by your company in the State of New York in calendar year 1997 \_\_\_\_\_.

7) Some or all of the contracts referred to in questions #5 and #6 may contain Utilization Review (UR) provisions. Please provide the approximate number of persons covered by nonmanaged care contracts that contain UR provisions on: 6/30/97 \_\_\_\_\_, 12/31/97 \_\_\_\_\_.

8) Direct Premium Written for nonmanaged care contracts that contain UR provisions by your company in the State of New York in calendar year 1997 \_\_\_\_\_.

9) Please provide the number of complaints and Utilization Review Appeals for accident and health insurance contracts and Article 43 contracts other than managed care products written by your company in the State of New York:

	<b>Complaints*</b>	<b>Utilization Review Appeals per §4904 of the Insurance Law**</b>
<b>a) Number filed in 1997</b>		
<b>b) Number closed in 1997 (whether filed in 1997 or earlier)</b>		
<b>c) Number closed in 1997 resulting in a REVERSAL (in whole or in part) of insurer's original determination</b>		
<b>d) Number closed in 1997 in which the insurer's original determination was UPHELD</b>		
<b>e) Number filed in 1997 that were PENDING on 12/31/97</b>		

\* Section 4802 of the Insurance Law does *not* apply to nonmanaged care products, thus this column should reflect all nonmanaged care complaints filed and/or closed by your company in 1997.

\*\* Section 4904 was effective April 1, 1997 and applies to all contracts issued, renewed, modified, altered, or amended on or after that date.

**RETURN BY JUNE 12 TO WAYNE COTTER, DIRECTOR OF RESEARCH, NEW YORK  
STATE INSURANCE DEPARTMENT, 25 BEAVER STREET, NEW YORK, N.Y.,10004.**