



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
1 COMMERCE PLAZA
ALBANY, NEW YORK 12257

**Circular Letter No. 15 (2002)
July 1, 2002**

TO: All Insurers Licensed To Write Accident and Health Insurance In New York State, Including Article 43 Corporations, Health Maintenance Organizations And Insurers Providing Disability Coverage

RE: United States Department of Labor Benefit Claims Procedure Regulation

The United States Department of Labor (DOL) has promulgated a regulation, 29 CFR §2560.503-1, that establishes claims processing standards for employee welfare benefit plans governed by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. §1001 et seq. The regulation applies to insurers and health maintenance organizations that provide group health and/or disability coverage to participants and beneficiaries of such plans. The DOL regulation is applicable on the first day of a plan year beginning on or after July 1, 2002, but not later than January 1, 2003.

The DOL regulation preempts state law to the extent that state law prevents the application of a requirement of the regulation. The areas of New York law impacted by the DOL regulation are those governing utilization review, grievances, explanation of benefit requirements, claim processing requirements, and prompt payment requirements.

The Insurance Department is currently reviewing the statutory and regulatory changes that may need to be made as a result of the DOL regulation. As the DOL regulation becomes effective, the Insurance Department will consider the additional information that becomes available as insurers begin to comply with the DOL requirements. The Department will also monitor the progress, if any, on the federal Patients' Bill of Rights, which has the potential to impact state utilization review and grievance requirements as well.

In the interim, insurers should be aware of the following:

- Insurers are responsible for complying with both New York law and regulations and the DOL rules, except for any provisions in New York law or regulation that are preempted by the DOL rules.
- In cases where New York law or regulations have more stringent requirements than the DOL regulation, insurers must comply with the New York requirements. In cases where the DOL regulation has more stringent requirements than New York law or regulations, insurers must comply with the more stringent DOL requirements.
- The Insurance Department is not requiring insurers to amend their subscriber contracts and certificates for compliance with the DOL requirements at this time. However, if an insurer will be amending its policy forms, it must file those forms with the Health Bureau of the Insurance Department for review and approval.
- The Insurance Department will make every effort to work with insurers to inform and educate insurers of New York requirements in a timely manner. Questions on compliance with specific DOL requirements should be directed to the United States Department of Labor.

Any questions on this Circular Letter may be directed to:

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