



*The Commonwealth of Massachusetts  
Health Policy Commission  
Office of Patient Protection  
Two Boylston Street  
Boston, MA 02116*

To: Commercial Health Insurers, Blue Cross Blue Shield of Massachusetts, and Health Maintenance Organizations Accredited Pursuant to M.G.L. c. 176O; and External Review Agencies under Contract with the Health Policy Commission Pursuant to M.G.L. c. 176O, § 14

From: Jenifer Bosco, Director, Office of Patient Protection

Re: Implementation of Changes to M.G.L. c. 176O, Pursuant to *An Act Implementing the Affordable Care Act and Providing Further Access to Affordable Health Care*, Chapter 35 of the Acts of 2013

Date: December 11, 2013

**IMPLEMENTATION OF CHANGES TO M.G.L. C. 176O, PURSUANT TO  
AN ACT IMPLEMENTING THE AFFORDABLE CARE ACT AND PROVIDING FURTHER  
ACCESS TO AFFORDABLE HEALTH CARE, CHAPTER 35 OF THE ACTS OF 2013**

The Office of Patient Protection (OPP) has released proposed amendments to its internal and external review regulations, which include changes to comply with [Chapter 35 of the Acts of 2013, An Act Implementing the Affordable Care Act and Providing Further Access to Affordable Health Care](#). The proposed amendments to the OPP regulations, 958 CMR 3.000, are available at <http://www.mass.gov/anf/budget-taxes-and-procurement/oversight-agencies/health-policy-commission/public-hearings-and-regulations/>

Statutory changes to M.G.L. c. 176O required by certain provisions of Ch. 35 of the Acts of 2013 affect the internal and external review processes and the operations of OPP. These statutory changes will take effect on January 1, 2014 prior to the effective date of corresponding regulatory changes. Accordingly, beginning on January 1, 2014, OPP, insurance carriers, external review agencies and consumers are required to comply with the relevant provisions of M.G.L. c. 176O, as outlined below.

**I. Changes Affecting Insurance Carriers**

To comply with the new requirements of M.G.L. c. 176O, insurance carriers and their utilization review organizations shall make the following procedural changes beginning January 1, 2014:

1. Grounds for filing a member grievance with an insurance carrier shall include “rescission of coverage.” Ch. 35 of the Acts of 2013, § 57, amending M.G.L. c. 176O, § 1.

2. Consumers may continue to appeal adverse determinations which are based upon a determination that a requested service is experimental or investigational. Ch. 35 of the Acts of 2013, § 56, amending M.G.L. c. 176O, § 1.
3. Insurance carrier notices shall provide consumers with the contact information for both OPP and the Massachusetts consumer assistance program, if applicable. Ch. 35 of the Acts of 2013, § 62, amending M.G.L. c. 176O, § 6(14).
4. Expedited member grievances, regarding claims which involve urgently needed services, shall be resolved by the insurance carrier within 72 hours. Ch. 35 of the Acts of 2013, § 66, amending M.G.L. c. 176O, § 13(b).
5. Consumers may file an expedited member grievance and an expedited external review request at the same time, without exhausting the internal grievance procedure. Ch. 35 of the Acts of 2013, § 68, amending M.G.L. c. 176O, § 14(a).

## II. Changes Affecting External Review Agencies (ERAs) and OPP Procedures

To comply with the new requirements of M.G.L. c. 176O, ERAs and OPP shall make the following procedural changes beginning January 1, 2014:

1. Consumers may file an expedited member grievance and an expedited external review request at the same time, without exhausting the internal grievance procedure. Ch. 35 of the Acts of 2013, § 68, amending M.G.L. c. 176O, § 14(a).
2. ERAs shall issue expedited external review decisions within 72 hours of receiving the external review request from OPP (instead of the current four days). Ch. 35 of the Acts of 2013, § 70, amending M.G.L. c. 176O, § 14(b).
3. ERAs shall issue non-expedited external review decisions within 45 days of receiving the external review request from OPP (instead of the current 60 days). Ch. 35 of the Acts of 2013, § 69, amending M.G.L. c. 176O, § 14(a).
4. Consumers will pay no more than \$75 in external review fees per year. Ch. 35 of the Acts of 2013, § 69, amending M.G.L. c. 176O, § 14(a).
5. The \$25 external review fees currently paid by consumers who file external reviews will be refunded to consumers who receive an external review decision which overturns the adverse determination. Ch. 35 of the Acts of 2013, § 69, amending M.G.L. c. 176O, § 14.

Further guidance will be released when changes to the regulations for the Office of Patient Protection are finalized. Please direct any questions to Jenifer Bosco at [jenifer.bosco@state.ma.us](mailto:jenifer.bosco@state.ma.us) or 617-979-1413.