PROJECT HISTORY - 2012

REVISIONS TO HEALTH CARRIER GRIEVANCE PROCEDURE MODEL ACT (#72)

1. Description of the Project, Issues Addressed, etc.

The revisions to the *Health Carrier Grievance Procedure Model Act* (#72) were made to reflect the provisions of the interim final regulations for internal claims and appeals and external review processes published in the *Federal Register* July 23, 2010, as revised by the interim final regulations published in the *Federal Register* June 24, 2011.

The interim final regulations published in the *Federal Register* June 24, 2011 made four changes to the interim final regulations published in the *Federal Register* July 23, 2010, that impacted this model and the *Utilization Review and Benefit Determination Model Act* (#73). The first change, which impacted the *Utilization Review and Benefit Determination Model Act* (#73) only, amended the interim final regulations to return to the requirement that a health insurance issuer make an initial determination for a claim involving an urgent care request within 72 hours. The second change, which impacted both models, eliminated the requirement that health insurance issuers automatically provide the diagnosis and treatment codes as part of a notice of an adverse benefit determination or final adverse benefit determination. The issuer must, however, notify claimants of their opportunity to request the codes.

The third change, which also impacted both models, revised the deemed exhaustion provisions in the interim final regulations to provide that, if a health insurance issuer's failure to strictly adhere to the internal claims and appeals procedure is de minimus—i.e., not reflective of a pattern—then there is no deemed exhaustion. The amendments also provide that the claimant be notified of his or her right to obtain an explanation of the issuer's basis that the failure to follow the procedure was de minimus. The last change, which also impacted both models, amends a provision in the interim final regulations related to the requirement that certain notices be provided to claimants in a culturally and linguistically appropriate manner. The amendment establishes for both the group and individual markets the trigger for when notices must be provided to a claimant in a culturally and linguistically appropriate manner—when 10% or more of the population residing in a claimant's county are literate only in the same non-English language. The amendment also requires a health insurance issuer to include in each notice sent to a claimant a one-sentence statement in the relevant non-English language about the availability of language services. Issuers are also required to provide a customer assistance process, such as a telephone hotline, with oral language services in the non-English language and to provide written notices in the non-English language.

2. Name of Group Responsible for Drafting the Model and States Participating

The Regulatory Framework (B) Task Force is responsible for drafting the revisions. The members of the Task Force are: South Dakota, Chair, Nebraska, Vice Chair, Alabama, Arkansas, California, Colorado, District of Columbia, Florida, Illinois, Indiana, Kentucky, Maine, Minnesota, Missouri, Montana, Nevada, New Jersey, N. Mariana Islands, Ohio, Oklahoma, Oregon, Utah, Vermont, Virginia, West Virginia and Wisconsin.

3. Project Authorized by What Charge and Date First Given to the Group

The Regulatory Framework Task Force has a general charge to: coordinate and develop the provision of technical assistance to the states regarding state level implementation issues raised by federal health legislation and regulations. After the enactment of PPACA in March 2010, consistent with this charge, the Health Insurance and Managed Care (B) Committee directed the Regulatory Framework (B) Task Force to review and revise existing NAIC models impacted by PPACA or, as necessary, develop new NAIC models to assist the states in implementing PPACA.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The revisions were drafted by the Regulatory Framework (B) Task Force. The Task Force held a conference call Sept. 1, 2011 and a person-to-person meeting at the 2011 Fall National Meeting during which the draft and comments received on it were discussed. All drafts and comments were posted on the Task Force's page on the NAIC Internet website.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The Regulatory Framework (B) Task Force held a conference call Sept. 1, 2011 and a person-to-person meeting at the 2011 Fall National Meeting during which the draft and comments received on it were discussed. All drafts and comments were posted on the Task Force's page on the NAIC Internet website.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

None

7. Any Other Important Information (e.g., amending an accreditation standard).

None

PROJECT HISTORY - 2010

REVISIONS TO HEALTH CARRIER GRIEVANCE PROCEDURE MODEL ACT (#72)

1. Description of the Project, Issues Addressed, etc.

At the Summer National Meeting, the Regulatory Framework (B) Task Force adopted a work plan to revise NAIC models impacted by the Sept. 23 immediate reform provisions of the Patient Protection and Affordable Care Act (PPACA) and, for those PPACA Sept. 23 immediate reform provisions that do not fit into any existing NAIC model, to develop model language templates to assist the states in implementing those provisions. The revisions to the *Health Carrier Grievance Procedure Model Act* (#72) reflect the provisions of section 2719 of the Public Health Service Act (PHSA) of PPACA and the interim final regulations for internal claims and appeals and external review processes published in the *Federal Register* July 23. This model was revised in 2001 for consistency with the final regulations promulgated by the U.S. Department of Labor (DOL) in 2000 for the handling of health insurance claims under employer benefit plans governed by the Employee Retirement Income Security Act of 1974 (ERISA). The interim final regulations published in the *Federal Register* July 23 revise the DOL regulations; the revisions to the model reflect those revisions.

2. Name of Group Responsible for Drafting the Model and States Participating

The Regulatory Framework (B) Task Force is responsible for drafting the revisions. The members of the Task Force are: South Dakota, Chair, Idaho, Vice Chair, Alabama, Arkansas, California, District of Columbia, Florida, Illinois, Indiana, Kentucky, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, West Virginia and Wisconsin.

3. Project Authorized by What Charge and Date First Given to the Group

The Regulatory Framework Task Force has a general charge to: coordinate and develop the provision of technical assistance to the states regarding state level implementation issues raised by federal health legislation and regulations. After the enactment of PPACA in March 2010, consistent with this charge, the Health Insurance and Managed Care (B) Committee directed the Regulatory Framework (B) Task Force to review and revise existing NAIC models impacted by PPACA or, as necessary, develop new NAIC models to assist the states in implementing PPACA.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The revisions were drafted by the Regulatory Framework (B) Task Force. The Task Force held conference calls Sept. 13, 20 and 27, Oct. 4 and Nov. 1, 8 and 15 and a person-to-person meeting at the Fall National Meeting during which the draft and comments received on it were discussed. All drafts and comments were posted on the Task Force's page on the NAIC Internet website.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The Regulatory Framework (B) Task Force held conference calls Sept. 13, 20 and 27, Oct. 4 and Nov. 1, 8 and 15 and a person-to-person meeting at the Fall National Meeting during which the draft and comments received on it were discussed. All drafts and comments were posted on the Task Force's page on the NAIC Internet website.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

None

7. Any Other Important Information (e.g., amending an accreditation standard).

None