

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 65

As Recommended by Senate Committee on
Financial Institutions and Insurance

Brief*

SB 65 would amend provisions in the Insurance Code that provide for the external review of an adverse decision (a denial of coverage for a proposed or delivered health care service).

Specifically, the bill would increase the time, from 90 to 120 days, an insured person has to request an external review. Under current law, an external review must be completed within seven business days when an emergency medical condition exists; the bill would reduce that time frame to 72 hours after the date of the request for an expedited external review, or as expeditiously as the insured's medical condition or circumstances require.

The bill also would expand the definition of "emergency medical condition" to include:

- A medical condition where the time frame for completion of a standard external review would seriously jeopardize the insured's ability to regain maximum function; or
- A medical condition for which coverage has been denied on a determination that the recommended or requested health care service or treatment is experimental or investigational, if the insured's treating physician certifies, in writing, that the recommended or requested health care service or treatment for the medical

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

condition would be significantly less effective if not promptly initiated.

The bill also would provide that when an insurer or health insurance plan has failed to strictly adhere to all appeal procedure requirements as prescribed by state or federal law, the claimant (insured) shall be deemed to have exhausted the internal claims and appeal process regardless of whether the insurer of the health plan asserts its substantial compliance with the appeal procedure or any error it committed was minimal.

Background

The bill was introduced at the request of the Kansas Insurance Department whose representative indicated that states are required by the interim final rules for group health plans and health insurance issuers (internal claims and appeals and external review processes) under the federal health reform law to either adopt the federal rules or comply with the Uniform Health Carrier External Review Model Act. Compliance with the Uniform Model Act requires a state external review process to include, at a minimum, the Act's consumer protections. Current Kansas external review law, the representative stated, includes all but four provisions of the Uniform Model Act and these amendments will ensure Kansas avoids becoming subject to federal regulation of its external review process.

There were no opponents to the bill at the time of the Senate Committee hearing.

The fiscal note prepared by the Division of the Budget states that both the Kansas Insurance Department and the Kansas Health Policy Authority indicate that passage of the the bill would have no fiscal effect on agency operations.