

**STORAGE NAME:** h0235b.hr.doc  
**DATE:** March 27, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH REGULATION  
ANALYSIS**

**BILL #:** HB 235  
**RELATING TO:** Dental Service Claims/Appeals  
**SPONSOR(S):** Representative Prieguez  
**TIED BILL(S):** None.

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH REGULATION YEAS 8 NAYS 0
  - (2) INSURANCE
  - (3) COUNCIL FOR HEALTHY COMMUNITIES
  - (4)
  - (5)
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I. SUMMARY:

This bill creates a process for patients, and dentists acting on behalf of their patients, to appeal an adverse determination rendered regarding a claim for payment of a dentally necessary service when such services are covered by that group or individual insurer. The bill requires the insurer to respond to appeals within 15 business days.

In addition, the bill requires insurers to notify the treating dentist and the patient in writing within 2 days of rendering an adverse determination of the criteria or benefits provisions used to render the adverse determination, the identity of the dentist who rendered the adverse determination, and information about the appeals process. Such notification must be signed by an authorized representative of the insurer or the dentist who rendered the adverse determination.

The bill defines "adverse determination" and specifies who can render an adverse determination.

**See amendment section of this analysis for an explanation of the strike-everything amendment that is traveling with the bill.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The laws relating to insurance contracts are found in Chapter 627, Florida Statutes. Particularly relevant to this bill are parts II, VI, and VII of ch. 627, F.S., which provide the requirements of insurance contracts and health insurance policies.

The term "adverse determination" is defined in s. 641.47(1), F.S., in the context of health maintenance organizations and prepaid health clinics. It is a determination of whether a proposed treatment plan will be covered and is generally made prior to the service being rendered. The term is not generally used in the context of indemnity plans.

With regard to indemnity plans, the service is usually provided first, and then a claim for payment is made to the insurance company. A health claim form is submitted to the insurer, in accordance with the provisions of s. 627.647, F.S., and then a decision is made as to whether the claim is for a covered service and is medically necessary and appropriate. Section 627.6141, F.S., allows an appeal of a denial of claim if the claim was denied as not being medically necessary. That section allows a patient (claimant) or the patient's practitioner (provider acting for claimant) to appeal a denial to an insurer's licensed physician who is responsible for medical necessity reviews. The appeal provided under this section may be made by telephone and requires the insurer's physician to respond within a reasonable time, not to exceed 15 business days.

There is no provision in statute that specifies who can deny a claim. Thus, patient care decisions are not necessarily being made by dentists licensed to perform the same procedures that they are rendering expert opinions about relating to the appropriateness and dental necessity of such procedures. Additionally, there is no law requiring an insurer to notify the patient and the treating dentist of the reasons why a treatment plan is denied which could make it difficult for a decision to be appealed.

C. EFFECT OF PROPOSED CHANGES:

This bill creates a process for patients, and dentists acting on behalf of their patients, to appeal an adverse determination rendered regarding a claim for payment of a dentally necessary service when such services are covered by that group or individual insurer. The bill requires the insurer to respond to appeals within 15 business days.

In addition, the bill requires insurers to notify the treating dentist and the patient in writing within 2 days of rendering an adverse determination of the criteria or benefits provision used to render the adverse determination, the identity of the dentist who rendered the adverse determination, and information about the appeals process. Such notification must be signed by an authorized representative of the insurer or the dentist who rendered the adverse determination.

The bill defines "adverse determination" as being a determination, made by an insurer which covers dental services, that an admission, availability of care, continued stay, or other health care service has been reviewed, and based upon the information provided, does not meet the insurer's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness, and coverage for the requested service is therefore denied, reduced, altered, or terminated.

Who specifically can render an adverse determination is identified in the bill as a dentist licensed in this state in accordance with the licensure provisions of ch. 466, F.S., or a dentist who holds an active, unencumbered license in another state with similar licensing requirements.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Creates s. 627.419(9), FS., to establish a process to appeal adverse determinations; specifies who can render an adverse determination; requires written notification of basis for adverse determination; and defines terminology.

**Section 2.** Establishes effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not require an insurer to employ a licensed dentist, thereby allowing an insurer to contract with a dental consultant on an as-needed basis to conduct these expert reviews. Thus, there should not be a significant fiscal impact to the insurers covering dental services.

D. FISCAL COMMENTS:

The Department of Insurance and the Department of Health have indicated that this bill will have no fiscal impact to either agency.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None. A provision could be added directing the Board of Dentistry to define by rule what other states have "similar licensing requirements" as Florida.

C. OTHER COMMENTS:

The bill should be amended to correct terminology errors relating to dentist/physician, adverse determination/denial of claim, and dental/medical necessity.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 27, 2001, the Committee on Health Regulation adopted a strike-everything amendment. The strike-everything amendment provides an appeals process for claims that have been denied as not being medically or dentally necessary after the service has been provided to the patient. The amendment provides that the appeal must be available under the contract, the appeal shall be made to the insurer's licensed dentist who is responsible for medical necessity reviews or who is a member of the plan's peer review group, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days. The amendment is traveling with the bill.

**STORAGE NAME:** h0235b.hr.doc

**DATE:** March 27, 2001

**PAGE:** 5

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:

Staff Director:

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Wendy Smith Hansen, Senior Attorney

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Lucretia Shaw Collins