

§4301-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 742, §3 (NEW).]

1. Adverse health care treatment decision. "Adverse health care treatment decision" means a health care treatment decision made by or on behalf of a carrier offering or renewing a health plan denying in whole or in part payment for or provision of otherwise covered services requested by or on behalf of an enrollee. "Adverse health care treatment decision" includes a rescission determination and an initial coverage eligibility determination, consistent with the requirements of the federal Affordable Care Act, and a prior authorization determination in accordance with section 4304.

[PL 2023, c. 680, Pt. A, §1 (AMD); PL 2023, c. 680, Pt. A, §10 (AFF).]

1-A. Aids and assists legally protected health care activity. "Aids and assists legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1.

[PL 2023, c. 648, Pt. E, §4 (NEW).]

2. Authorized representative. "Authorized representative" means:

A. A person to whom an enrollee has given express written consent to represent the enrollee in an external review; [PL 1999, c. 742, §3 (NEW).]

B. A person authorized by law to provide consent to request an external review for an enrollee; [PL 2023, c. 680, Pt. A, §2 (AMD); PL 2023, c. 680, Pt. A, §10 (AFF).]

C. A family member of an enrollee or an enrollee's treating health care provider when the enrollee is unable to provide consent to request an external review; or [PL 2023, c. 680, Pt. A, §2 (AMD); PL 2023, c. 680, Pt. A, §10 (AFF).]

D. A provider that is actively treating an enrollee. [PL 2023, c. 680, Pt. A, §2 (NEW); PL 2023, c. 680, Pt. A, §10 (AFF).]

[PL 2023, c. 680, Pt. A, §2 (AMD); PL 2023, c. 680, Pt. A, §10 (AFF).]

2-A. Behavioral health care service. "Behavioral health care service" means a health care service or treatment to address mental health and substance use conditions.

[PL 2023, c. 119, §1 (NEW); PL 2023, c. 119, §4 (AFF).]

3. Carrier. "Carrier" means:

A. An insurance company licensed in accordance with this Title to provide health insurance; [PL 1999, c. 742, §3 (NEW).]

B. A health maintenance organization licensed pursuant to chapter 56; [PL 1999, c. 742, §3 (NEW).]

C. A preferred provider arrangement administrator registered pursuant to chapter 32; [PL 1999, c. 742, §3 (NEW).]

D. A fraternal benefit society, as defined by section 4101; [PL 1999, c. 742, §3 (NEW).]

E. A nonprofit hospital or medical service organization or health plan licensed pursuant to Title 24; [PL 1999, c. 742, §3 (NEW).]

F. A multiple-employer welfare arrangement licensed pursuant to chapter 81; [PL 2011, c. 364, §21 (AMD).]

G. A self-insured employer subject to state regulation as described in section 2848-A; or [PL 2011, c. 364, §21 (AMD).]

H. Notwithstanding any other provision of this Title, an entity offering coverage in this State that is subject to the requirements of the federal Affordable Care Act. [PL 2011, c. 364, §22 (NEW).]

An employer exempted from the applicability of this chapter under the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Sections 1001 to 1461 (1988) is not considered a carrier.

[PL 2011, c. 364, §§21, 22 (AMD).]

4. Clinical peer. "Clinical peer" means a physician or other licensed health care practitioner who holds a nonrestricted license in a state of the United States, is board certified in the same or similar specialty as typically manages the medical condition, procedure or treatment under review and whose compensation does not depend, directly or indirectly, upon the quantity, type or cost of the medical condition, procedure or treatment that the physician or other licensed health care practitioner approves or denies on behalf of a carrier.

[PL 2019, c. 171, §1 (AMD).]

4-A. Emergency medical condition. "Emergency medical condition" means the sudden and, at the time, unexpected onset of a physical or mental health condition, including severe pain, manifesting itself by symptoms of sufficient severity, regardless of the final diagnosis that is given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe:

A. That the absence of immediate medical attention for an individual could reasonably be expected to result in:

- (1) Placing the physical or mental health of the individual or, with respect to a pregnant woman, the health of the pregnant woman or her unborn child in serious jeopardy;
- (2) Serious impairment of a bodily function; or
- (3) Serious dysfunction of any organ or body part; or [PL 2019, c. 238, §1 (NEW).]

B. With respect to a pregnant woman who is having contractions, that there is:

- (1) Inadequate time to effect a safe transfer of the woman to another hospital before delivery; or
- (2) A threat to the health or safety of the woman or unborn child if the woman were to be transferred to another hospital. [PL 2019, c. 238, §1 (NEW).]

[PL 2019, c. 238, §1 (NEW).]

4-B. Emergency service. "Emergency service" means a health care item or service furnished or required to evaluate and treat an emergency medical condition that is provided in an emergency facility or setting.

[PL 2019, c. 238, §1 (NEW).]

5. Enrollee. "Enrollee" means an individual who is enrolled in a health plan or a managed care plan.

[PL 1999, c. 742, §3 (NEW).]

5-A. Gender-affirming health care services. "Gender-affirming health care services" has the same meaning as in Title 14, section 9002, subsection 4.

[PL 2023, c. 648, Pt. E, §5 (NEW).]

6. Health care treatment decision. "Health care treatment decision" means a decision regarding diagnosis, care or treatment when medical services are provided by a health plan, or a benefits decision involving determinations regarding medically necessary health care, preexisting condition determinations and determinations regarding experimental or investigational services.

[PL 2001, c. 288, §1 (AMD).]

7. Health plan. "Health plan" means a plan offered or administered by a carrier that provides for the financing or delivery of health care services to persons enrolled in the plan, other than a plan that provides only accidental injury, specified disease, hospital indemnity, Medicare supplement, disability

income, long-term care or other limited benefit coverage not subject to the requirements of the federal Affordable Care Act. A plan that is subject to the requirements of the federal Affordable Care Act and offered in this State by a carrier, including, but not limited to, a qualified health plan offered on an American Health Benefit Exchange or a SHOP Exchange established pursuant to the federal Affordable Care Act, is a health plan for purposes of this chapter.

[PL 2011, c. 364, §23 (AMD).]

8. Independent review organization. "Independent review organization" means an entity that conducts independent external reviews of adverse health care treatment decisions.

[PL 1999, c. 742, §3 (NEW).]

8-A. Legally protected health care activity. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8.

[PL 2023, c. 648, Pt. E, §6 (NEW).]

9. Managed care plan. "Managed care plan" means a plan offered or administered by a carrier that provides for the financing or delivery of health care services to persons enrolled in the plan through:

A. Arrangements with selected providers to furnish health care services; and [PL 1999, c. 742, §3 (NEW).]

B. Financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan. [PL 1999, c. 742, §3 (NEW).]

A return to work program developed for the management of workers' compensation claims may not be considered a managed care plan.

[PL 1999, c. 742, §3 (NEW).]

10. Medically appropriate health care.

[PL 2001, c. 288, §2 (RP).]

10-A. Medically necessary health care. "Medically necessary health care" means health care services or products provided to an enrollee for the purpose of preventing, diagnosing or treating an illness, injury or disease or the symptoms of an illness, injury or disease in a manner that is:

A. Consistent with generally accepted standards of medical practice; [PL 2001, c. 288, §3 (NEW).]

B. Clinically appropriate in terms of type, frequency, extent, site and duration; [PL 2001, c. 288, §3 (NEW).]

C. Demonstrated through scientific evidence to be effective in improving health outcomes; [PL 2001, c. 288, §3 (NEW).]

D. Representative of "best practices" in the medical profession; and [PL 2001, c. 288, §3 (NEW).]

E. Not primarily for the convenience of the enrollee or physician or other health care practitioner. [PL 2001, c. 288, §3 (NEW).]

[PL 2001, c. 288, §3 (NEW).]

11. Medical necessity.

[PL 2001, c. 288, §4 (RP).]

12. Ordinary care. "Ordinary care" means, in the case of a carrier, the degree of care that a carrier of ordinary prudence would use under the same or similar circumstances. For a person who is an agent of a carrier, "ordinary care" means the degree of care that a person of ordinary prudence would use under the same or similar circumstances.

[PL 1999, c. 742, §3 (NEW).]

13. Participating provider. "Participating provider" means a licensed or certified provider of health care services, including mental health services, or health care supplies that has entered into an agreement with a carrier to provide those services or supplies to an individual enrolled in a managed care plan.

[PL 1999, c. 742, §3 (NEW).]

14. Peer-reviewed medical literature. "Peer-reviewed medical literature" means scientific studies published in at least 2 articles from major peer-reviewed medical journals that present supporting data that the proposed use of a drug or device is safe and effective.

[PL 1999, c. 742, §3 (NEW).]

15. Plan sponsor. "Plan sponsor" means an employer, association, public agency or any other entity providing a health plan.

[PL 1999, c. 742, §3 (NEW).]

16. Provider. "Provider" means a practitioner or facility licensed, accredited or certified to perform specified health care services consistent with state law.

[PL 1999, c. 742, §3 (NEW).]

16-A. Provider profiling program. "Provider profiling program" means a program that uses provider data in order to rate or rank provider quality, cost or efficiency of care by the use of a grade, star, tier, rating or any other form of designation that provides an enrollee with an incentive to use a designated provider based on quality, cost or efficiency of care.

[PL 2013, c. 383, §3 (AMD).]

17. Religious nonmedical provider. "Religious nonmedical provider" means a provider who provides only religious nonmedical treatment or religious nonmedical nursing care.

[PL 1999, c. 742, §3 (NEW).]

17-A. Reproductive health care services. "Reproductive health care services" has the same meaning as in Title 14, section 9002, subsection 9.

[PL 2023, c. 648, Pt. E, §7 (NEW).]

18. Special condition. "Special condition" means a condition or disease that is life-threatening, degenerative or disabling and requires specialized medical care over a prolonged period of time.

[PL 1999, c. 742, §3 (NEW).]

19. Specialist. "Specialist" means an appropriately licensed and credentialed health care provider with specialized training and clinical expertise.

[PL 1999, c. 742, §3 (NEW).]

20. Standard reference compendia. "Standard reference compendia" means:

A. The United States Pharmacopeia Drug Information or information published by its successor organization; or [PL 1999, c. 742, §3 (NEW).]

B. The American Hospital Formulary Service Drug Information or information published by its successor organization. [PL 1999, c. 742, §3 (NEW).]

[PL 1999, c. 742, §3 (NEW).]

21. Urgent care. "Urgent care" means health care or treatment provided in response to exigent circumstances.

[PL 2023, c. 119, §2 (NEW); PL 2023, c. 119, §4 (AFF).]

SECTION HISTORY

PL 1999, c. 742, §3 (NEW). PL 2001, c. 288, §§1-4 (AMD). PL 2007, c. 199, Pt. B, §1 (AMD). PL 2009, c. 439, Pt. B, §1 (AMD). PL 2011, c. 364, §§20-23 (AMD). PL 2013, c. 383, §3 (AMD). PL 2019, c. 171, §1 (AMD). PL 2019, c. 238, §1 (AMD). PL 2023, c. 119, §§1, 2 (AMD).

PL 2023, c. 119, §4 (AFF). PL 2023, c. 648, Pt. E, §§4-7 (AMD). PL 2023, c. 680, Pt. A, §§1, 2 (AMD). PL 2023, c. 680, Pt. A, §10 (AFF).

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