

Private health insurance basics 2016

Private health insurance regulation

What's inside?

State regulatory functions • Consumer appeals process for health plan issuer decisions • Federal laws and regulations

State regulation of private health insurance

Health insurance is primarily regulated at the state level.¹ State regulations address issues including health insurance issuer licensing, business practices, market conduct, rate review, benefit mandates and consumer protections.² However, the breadth and scope of health insurance regulations vary by state.

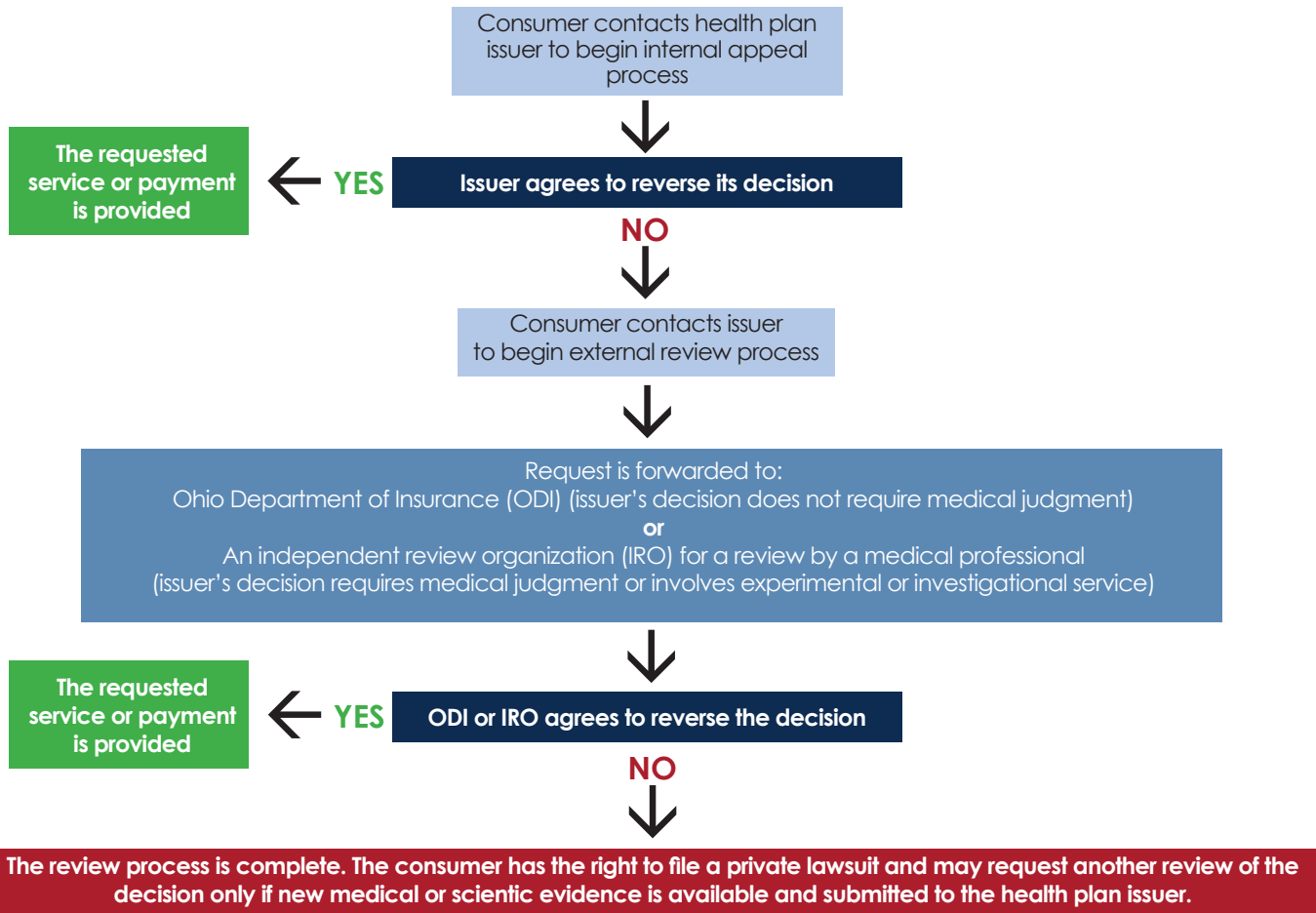
Ohio Department of Insurance

The Ohio Department of Insurance (ODI), Ohio's insurance regulatory agency, has authority to ensure that consumers receive the benefits in their health plan or policy. While ODI does not set health insurance plan premiums or rates, the Department reviews plan rates to ensure they are within legal limits.

ODI regulatory functions also include:

- Licensing health insurance issuers
- Reviewing premium rates and policy language for compliance with the law
- Regulating business practices (market conduct)
- Monitoring issuers' compliance with state and federal insurance laws and regulations
- Issuing licenses to insurance agents and third party administrators
- Monitoring agent conduct and continuing education requirements
- Monitoring the financial solvency of licensed health issuers
- Investigating and preventing health insurance fraud
- Managing consumer complaints and health plan decision appeals processes (see Figure 1)

Figure 1. Consumer process to appeal a health plan issuer decision



Source: Adapted from the Ohio Department of Insurance "How to Appeal a Decision by Your Health Plan Issuer" flowchart

Federal regulation of private health insurance

Over time, the federal government has become more active in the regulation of private health insurance, particularly in the individual and small group markets. Significant federal laws governing health insurance issuers and plans, health coverage and consumer protections are outlined below.

Employee Retirement Income Security Act (ERISA): The majority of private-sector, employment-based health plans are regulated by ERISA, enacted in 1974. ERISA is a federal law that establishes a set of minimum standards and consumer protections that apply to most employee pension and group health plans, including self-insured plans.

ERISA requires that health plans comply with a number of federal standards including providing plan enrollees with access to plan information; providing fiduciary responsibilities for those managing and controlling plan assets; establishing a grievance and appeals process for enrollees to receive plan benefits; and providing plan enrollees with the ability to sue for plan benefits and breaches of fiduciary duty.

Consolidated Omnibus Budget Reconciliation Act (COBRA): Passed by Congress in 1986, COBRA gives workers and their families who lose employer-sponsored health coverage the right to temporarily continue group health coverage. Employers with 20 or more employees who offer group health coverage to their employees are subject to COBRA. Coverage through COBRA is provided for a limited period of time and only under certain circumstances.³

Health Insurance Portability and Accountability Act (HIPAA): HIPAA, originally enacted by Congress in 1996, increases access to health insurance by making individual and small group coverage “portable” in the event that a worker changes or loses their job. HIPAA also requires the establishment

of national standards for electronic health transactions; mandates the adoption of privacy and security standards to ensure the confidentiality of patient records; and calls for the creation of national identifiers for patients, providers, health insurance plans and employers when used in electronic data exchange.

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA): In 2008, Congress enacted MHPAEA as a supplement to the Mental Health Parity Act of 1996. Under MHPAEA, group health plans and issuers are prohibited from imposing less favorable limitations on mental health and substance use disorder benefits than those placed on medical and surgical benefits.⁴ MHPAEA was amended by the Patient Protection and Affordable Care Act in 2010 to also apply to non-group (individual/family) coverage.⁵

MHPAEA is monitored and enforced through the federal departments of Labor, Health and Human Services and the Treasury.⁶ In March of 2016, a Presidential Memorandum was signed creating a Mental Health and Substance Use Disorder Parity Task Force. The Task Force “will identify and promote best practices for executive departments and agencies, as well as State agencies, to better ensure compliance with and implementation of requirements related to mental health and substance use disorder parity, and determine areas that would benefit from further guidance.”⁷

The Patient Protection and Affordable Care Act (ACA): The ACA, enacted in 2010, introduced a series of reforms that apply to health insurance issuers and impact both private non-group (individual/family) and group health insurance coverage. Collectively, ACA reforms establish minimum federal standards governing the issuance of and access to health insurance coverage, health plan benefit structures and consumer protections⁸ (see **Private Health Insurance Basics fact sheet 3** for a summary of ACA private health insurance reforms).

Sources

1. 15 U.S.C. §§ 11011 et seq.
2. Mach, Annie L., and Bernadette Fernandez. *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA)*. Washington, D.C.: Congressional Research Service, 2016. <https://www.fas.org/sgp/crs/misc/R42069.pdf>
3. COBRA benefits are available upon voluntary or involuntary job loss, reduction in hours worked, transition between jobs, death, divorce or upon another qualifying life event.
4. The Center for Consumer Information & Insurance Oversight. “The Mental Health Parity and Addiction Equity Act.” CMS.gov. Accessed September 30, 2016. https://www.cms.gov/ccio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet.html
5. Ibid.
6. Perez, Thomas E. *Improving Health Coverage for Mental Health and Substance Use Disorder Patients*. Washington, D.C.: U.S. Department of Labor, 2016. <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/mental-health-parity/parityeducationreport.pdf>
7. The White House Office of the Press Secretary. “Presidential Memorandum – Mental Health and Substance Use Disorder Parity Task Force.” News release. March 29, 2016. <https://www.whitehouse.gov/the-press-office/2016/03/29/presidential-memorandum-mental-health-and-substance-use-disorder-parity>
8. Mach, Annie L., and Bernadette Fernandez. *Private Health Insurance Market Reforms in the Patient Protection and Affordable Care Act (ACA)*. Washington, D.C.: Congressional Research Service, 2016. <https://www.fas.org/sgp/crs/misc/R42069.pdf>

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