NEW YORK STATE DEPARTMENT of FINANCIAL SERVICES

DFS Case #: _____

PHYSICIAN ATTESTATION FOR AN EXTERNAL APPEAL

The patient's physician must complete this attestation for any external appeal of a health plan's denial of services as experimental/investigational; a clinical trial; a rare disease; out of network; or for an expedited appeal. The patient's prescriber may also request an expedited formulary exception appeal. The Department of Financial Services or the external appeal agent may need to request additional information from you, including the patient's medical records. This information should be provided immediately. The attestation and supporting documents may be submitted via our secure portal. Or by mail to New York State Department of Financial Services, 99 Washington Avenue, Box 177, Albany NY 12210 or Fax: (800) 332-2729, or email earesponse@dfs.ny.gov. Please call 800-400-8882 if you need assistance.

If the patient has **not yet received the treatment,** and **the 30-day (or 72 hours for formulary exception) timeframe will seriously jeopardize the patient's life, health, or ability to regain maximum function, or a delay will pose an imminent or serious threat to the patient's health,** the patient's physician may request the appeal be expedited. The external appeal agent must make an expedited decision within 72 hours (or 24 hours for formulary exception), instead of 30 days (or 72 hours for formulary exception), whether you provide all necessary medical information or records to the agent or not. **You must send information to the agent immediately in order for it to be considered.**

Type of Review	☐Standard Appeal (30 days), or Non-formulary drug (72 hours)	☐Expedited Appeal (72 hours), or for a non-formulary drug (24 hours)
If Expedited, check one:	☐ Expedited Appeal (72 hours). Denial concerns an admission, availability of care, continued stay, or health care service for which the patient received emergency services and remains hospitalized. ☐ Expedited Appeal (72 hours). 30-day timeframe will seriously jeopardize patient's life, health, or ability to regain maximum function, or a delay will pose an imminent or serious threat to patient's health. ☐ Expedited Formulary Exception (24 hours). The patient is suffering from a health condition that may seriously jeopardize his or her life, health, or ability to regain maximum function, or is undergoing a current course of treatment using a non-formulary drug.	
If Expedited:	☐ I am aware that the external appeal agent may need to contact me during non-business days for medical information, including medical records, and that a decision will be made by the external appeal agent within 72 hours of receiving this expedited appeal request, regardless of whether or not I provide medical information or medical records to the external appeal agent.	
	During non-business days, I can be reached at: ( )	

Appeal Reason	Applicable Sections
Expedited Medical Necessity	**1-9, and 14**
Expedited Formulary Exception: a delay will pose an imminent or serious threat to the patient's health.	**1-9, and 14**
Experimental/investigational (other than a clinical trial or rare disease treatment). Standard health services or procedures have been ineffective or would be medically inappropriate, or there does not exist a more beneficial standard health service or procedure covered by the health plan.	**1-9, 10 and 14**
Clinical trial: There exists a clinical trial which is open, for which the patient is eligible and has been or will likely be accepted	**1-9, 11 and 14**
Rare disease: The patient has a rare condition or disease for which there is no standard treatment that is likely to be more clinically beneficial to the patient than the requested service. The requested service is likely to benefit the patient in the treatment of the patient's rare disease, and such benefit outweighs the risk of the service	**1-9, 12 and 14**
Out-of-network service; the health plan offers an alternate in-network service that is not materially different from the out-of-network service	**1-9, 10 and 14**
Out-of-network referral; the health plan does not have an in-network provider with the appropriate training and experience to meet the health care needs of the patient	**1 - 9, 13 and 14**

1. Name of Physician (or Prescriber) completing this form:			
To appeal an experimental/investigational, clinical trial, out-of-network service, or out-of-network referral denial, the physician must be licensed and board-certified or board-eligible and qualified to practice in the area of practice appropriate to treat the patient. For a rare disease appeal, a physician must meet the above requirements but may not be the patient's treating physician.			
2. Physician Street Address:			
Physician City, State, Zip:			
3. Contact Person:			
4. Contact Phone Number:	( )	Fax #:	( )
5. Contact Email (if e-mail is preferred):			
6. Name of Patient:			
7. Patient Street Address:			
Patient City, State, Zip:			
8. Patient Phone Number:	( )		
9. Patient Health Plan Name and ID Number:			

10. Experimental/Investigational or Out-of-Network Service Denial	
a. For an Experimental/Investigational Denial – As the patient's physician I attest that (select one without altering):	
OR	☐ Standard health services or procedures have been ineffective or would be medically inappropriate.
	☐ There does not exist a more beneficial standard health service or procedure covered by the health plan.
AND	☐ I recommended a health service or pharmaceutical product that, based on the documents of medical and scientific evidence **outlined in c and d below**, is likely to be more beneficial to the patient than any covered standard health service.
b. For an Out-of-Network Service Denial	
☐ As the patient's physician, I attest that the following out-of-network health service (identify service) is materially different from the alternate in-network health service recommended by the health plan and (based on the following **two** documents of medical and scientific evidence) is likely to be more clinically beneficial than the alternate in-network health service and the adverse risk of the requested health service would likely not be substantially increased over the alternate in-network health service.	
Identify service:	

c. List and attach the documents relied upon and attach a copy of the documents:					
Document #1 Title:					
Publication Name:		Issue Number:		Date:	
Document #2 Title:					
Publication Name		Issue Number:		Date:	

d. Supporting Documents		
The medical and scientific evidence listed above meets one of the following criteria (Note: peer-reviewed literature does not include publications or supplements sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer.)		Check the applicable documents:
☐	Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Institute of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus, Medline and MEDLARS database Health Services Technology Assessment Research;	☐ Document #1 ☐ Document #2
☐	Peer-reviewed scientific studies published in, or accepted for publication by, medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;	☐ Document #1 ☐ Document #2
☐	Peer-reviewed abstracts accepted for presentation at major medical association meetings;	☐ Document #1 ☐ Document #2
☐	Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the federal Social Security Act;	☐ Document #1 ☐ Document #2
☐	The following standard reference compendia: (i) the American Hospital Formulary Service Drug Information; (ii) the National Comprehensive Cancer Network's Drugs and Biological Compendium; (iii) the American Dental Association Accepted Dental Therapeutics; (iv) Thomson Micromedex DrugDex; or (v) Elsevier Gold Standard's Clinical Pharmacology; or other compendia as identified by the Secretary of Health and Human Services or the Centers for Medicare & Medicaid Services; or recommended by review article or editorial comment in a major peer reviewed professional journal;	☐ Document #1 ☐ Document #2
☐	Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.	☐ Document #1 ☐ Document #2

11. Clinical Trial Denial	
☐	There exists a clinical trial which is open, for which the patient is eligible and has been or will likely be accepted.

Although not required, it is recommended you enclose clinical trial protocols and related information. The clinical trial must be a peer-reviewed study plan which has been: (1) reviewed and approved by a qualified institutional review board, and (2) approved by one of the National Institutes of Health (NIH), or an NIH cooperative group or center, or the Food and Drug Administration in the form of an investigational new drug exemption, or the federal Department of Veteran Affairs, or a qualified non-governmental research entity as identified in guidelines issued by individual NIH Institutes for Center Support Grants, or an institutional review board of a facility which has a multiple project assurance approved by the Office of Protection from Research Risks of the NIH.

12. Rare Disease Denial - Physician Attestation: If provision of the service requires approval of an Institutional Review Board, include or attach the approval

☐ As a physician, other than the patient's treating physician, I attest the patient has a rare condition or disease for which there is no standard treatment that is likely to be more clinically beneficial to the patient than the requested service. The requested service is likely to benefit the patient in the treatment of the patient's rare disease, and such benefit outweighs the risk of the service.

☐ I do ☐ I do not have a material financial or professional relationship with the provider of the service (check one).

Check one:	☐ The patient's rare disease currently or previously was subject to a research study by the National Institutes of Health Rare Diseases Clinical Research Network.
	☐ The patient's rare disease affects fewer than 200,000 U.S. residents per year.

13. Out-of-Network Referral Denial

As the patient's attending physician, I certify that the in-network health care provider(s) recommended by the health plan do not have the appropriate training and experience to meet the particular health care needs of the patient. I recommend the out-of-network provider indicated below, who has the appropriate training and experience to meet the particular health care needs of the patient and is able to provide the requested health service.

Name of out-of-network provider:	
Address of out-of-network provider:	
Training and experience of out-of-network provider: (e.g. board certification, years treating the condition, # of procedures performed and outcome, any other pertinent information).	

14. Physician (or Prescriber's) Signature

I attest that the above information is true and correct. I understand that I may be subject to professional disciplinary action for making false statements.

Physician's Signature		Date:	
Physician Name: (Print Clearly):			