

## Notice of Final Adverse Determination Requirements

A notice of final adverse determination must be issued in compliance with 42 U.S.C. § 300gg-19; 45 C.F.R. § 147.136; 29 C.F.R. § 2560.503-1; 29 C.F.R. § 2590.715-2719; N.Y. Insurance Law § 4903; N.Y. Public Health Law § 4903; 10 NYCRR 98-2.9; and 11 NYCRR 410.9. To ensure compliance with both New York and federal laws and regulations, a final adverse determination notice must include all the following information:

| REQUIREMENT  | AUTHORITY   |
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| 1. The notice must be written in a culturally and linguistically appropriate manner.   | 45 CFR § 147.136(b)(2)(ii)(E)   |
| 2. Date of the final adverse determination letter.*  | 11 NYCRR 410.9(e)<br>10 NYCRR 98-2.9(e)   |
| 3. Date of service.*   | 11 NYCRR 410.9(e)(7)<br>10 NYCRR 98-2.9(e)(7)<br>45 C.F.R. § 147.136(b)(2)(ii)(E)(1)  |
| 4. A description of the health care service, including the name of the health care provider, facility and/or physician proposed to provide the treatment and the developer/manufacturer of the health care service.*   | 11 NYCRR 410.9(e)(7)<br>10 NYCRR 98-2.9(e)(7)<br>45 C.F.R. § 147.136(b)(2)(ii)(E)(1)  |
| 5. The claim amount, if applicable.  | 45 C.F.R. § 147.136(b)(2)(ii)(E)(1)   |
| 6. A clear statement that the notice constitutes the final adverse determination.*   | 11 NYCRR 410.9(e)(2)<br>10 NYCRR 98-2.9(e)(2)   |
| 7. The insured's coverage type.*   | 11 NYCRR 410.9(e)(4)<br>10 NYCRR 98-2.9(e)(4)   |
| 8. The name and full address of the health plan's UR agent.*   | 11 NYCRR 410.9(e)(5)<br>10 NYCRR 98-2.9(e)(5)   |
| 9. The UR agent's contact person and telephone number.*  | 11 NYCRR 410.9(e)(6)<br>10 NYCRR 98-2.9(e)(6)   |
| 10. The health plan's contact person and telephone number.*  | 11 NYCRR 410.9(e)(3)<br>10 NYCRR 98-2.9(e)(3)   |
| 11. The reason for the determination, including clinical rationale, as applicable to the insured. The reason must include the denial code, if any, and its corresponding meaning. The clinical rationale should include an explanation of the scientific evidence or clinical judgment used, applying the terms of the plan to the insured's medical circumstances.* | Insurance Law § 4904(c)(1)<br>Public Health Law § 4904(3)(a)<br>45 C.F.R. § 147.136 (b)(2)(ii)(E)(3)<br>29 C.F.R. § 2560.503-1 (j)(1)<br>29 C.F.R. § 2560.503-1 (j)(5)(ii)<br>11 NYCRR 410.9(e)(1)<br>10 NYCRR 98-2.9(e)(1) |
| 12. Notice of the availability, upon request, of the diagnosis code and its corresponding meaning.   | 45 C.F.R. § 147.136(b)(2)(ii)(E)(1)   |
| 13. Notice of the availability, upon request, of the treatment code and its corresponding meaning.   | 45 C.F.R. § 147.136(b)(2)(ii)(E)(1)   |
| 14. Notice of the availability, free of charge, upon request, reasonable access to, and copies of, all documents, records and other information relied upon to make such determination.  | 29 C.F.R. § 2560.503-1(j)(3)  |

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| 15. Notice of the availability, free of charge, upon request, of the clinical review criteria, internal rule, protocol or guideline relied upon to make such determination.   | 29 C.F.R. § 2560.503-1(j)(5)(i)   |
| 16. For an out-of-network referral denial, the names of the in-network providers identified by the health plan that have the appropriate training and experience to meet the particular health care needs of the insured.*  | Insurance Law § 4904(a-2)<br>Public Health Law § 4904(1-b)  |
| 17. If the appeal was expedited, a statement that the appealing party may further appeal through the standard appeal process or through an external appeal.*  | Insurance Law § 4904(b)<br>Public Health Law § 4904(2)  |
| 18. Notice of the right to an external appeal and the time frames for requesting an external appeal. Such notice must be in the body of the final adverse determination letter and not only in attachments to the letter.*  | Insurance Law § 4904(c)(2)<br>Public Health Law § 4904(3)(b)<br>11 NYCRR 410.9(e)(8)<br>10 NYCRR 98-2.9(e)(8) |
| 19. A copy of the standard description of the external appeal process, including a form and instructions for requesting an external appeal along with a description of the fee, criteria for determining eligibility for a waiver of any fee based on financial hardship, and the process for requesting such waiver.*  | 11 NYCRR 410.9(h)(1)<br>10 NYCRR 98-2.9(h)(1)<br>45 C.F.R. § 147.136(b)(2)(ii)(E)(4)                          |
| 20. A statement describing any voluntary appeal procedures offered by the plan, if applicable, and a statement of the insured's right to bring a civil action under § 502(a) of ERISA.  | 29 C.F.R. § 2560.503-1(j)(4)  |
| 21. For group health plans that offer two levels of internal appeal, a clear statement, in bolded text, that the timeframes for requesting an external appeal begins upon receipt of the final adverse determination of the first level appeal, and that by choosing to request a second level internal appeal, the time to request an external appeal may expire.* | 11 NYCRR 410.9(e)(9)<br>10 NYCRR 98-2.9(e)(9)   |
| 22. A statement regarding the availability of any applicable office of health insurance consumer assistance or ombudsman established under 42 U.S.C. § 300gg-93 to assist insureds with the appeal process.   | 45 C.F.R. § 147.136(b)(2)(ii)(E)(5)   |

\* This item is applicable to a notice of a final adverse determination issued by a utilization review agent for stand-alone dental or vision insurance.