

**HOUSE . . . . . No. 00337**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Stephen Kulik*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act administering national standards to medicaid medical necessity reviews.

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PETITION OF:

NAME:

| DISTRICT/ADDRESS:

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# HOUSE . . . . . No. 00337

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By Mr. Stephen Kulik of Worthington, petition (accompanied by bill, House, No. 00337) of [petitioners] relative to the reconsideration or appeal of adverse determinations made in Medicaid medical necessity reviews.. Joint Committee on Health Care Financing.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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An Act administering national standards to medicaid medical necessity reviews.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1: Section 8 of chapter 118E of the General Laws, as appearing in the 2008 Official  
2 Edition, is hereby amended by inserting the following new definitions:

3 “Adverse determination”, a determination from a clinical peer reviewer, based upon a review of  
4 information provided by a healthcare provider, to deny, reduce, modify, or terminate an  
5 admission, continued inpatient stay, or the availability of any other health care services, for  
6 failure to meet the requirements for coverage based on medical necessity, appropriateness of  
7 health care setting and level of care, or effectiveness.

8 “Clinical peer reviewer”, a physician or other health care professional, other than the physician  
9 or other health care professional who made the initial decision, who holds a non-restricted  
10 license from the appropriate professional licensing board in the commonwealth, a current board  
11 certification from a specialty board approved by the American Board of Medical Specialties or of

12 the Advisory Board of Osteopathic Specialists from the major areas of clinical services or, for  
13 non-physician health care professionals, the recognized professional board for their specialty,  
14 who also actively practices in the same or similar specialty as typically manages the medical  
15 condition, procedure or treatment under review, and whose compensation does not directly or  
16 indirectly depend upon the quantity, type or cost of the services that such person approves or  
17 denies.

18 SECTION 2. Section 12 of said chapter 118E, as so appearing, is hereby amended by striking  
19 out, in line 3-4, the words "except medical standards and criteria."

20 SECTION 3. Section 48 of said chapter 118E, as so appearing, is hereby amended by striking out  
21 the sixth sentence in the third paragraph and inserting in place thereof the following new sentence  
22 The referee, or hearing officer, shall base his or her decision on the testimony, evidence,  
23 materials, legal rules, any relevant national evidence based medical standards or criteria  
24 presented by the healthcare provider, and the determination of the treating healthcare provider  
25 related to the services provided to the recipient of medical assistance that are adduced at the  
26 hearing. Such decision shall further provide a substantive determination for any adverse decision  
27 against the healthcare provider.

28 SECTION 4. Section 51 of said chapter 118E, as so appearing, is hereby amended by inserting  
29 after the first paragraph the following new paragraph

30 Upon making an adverse determination regarding an admission, procedure or service, the  
31 division shall provide a written notification of the adverse determination that shall include a  
32 substantive clinical justification therefor that is consistent with generally accepted principles of  
33 professional medical practice, and shall, at a minimum: (1) identify the specific information upon

34 which the adverse determination was based; (2) discuss the medical assistance recipient's  
35 presenting symptoms or condition, diagnosis and treatment interventions and the specific reasons  
36 based on national evidence based medical standards and criteria that such medical evidence fails  
37 to meet a national evidence based medical standard and criteria; (3) specify any alternative  
38 treatment option offered by the division, if any; and (4) reference and include applicable clinical  
39 practice guidelines and review criteria. The division shall give a provider treating a medical  
40 assistance recipient an opportunity to seek reconsideration of an adverse determination from a  
41 clinical peer reviewer. The reconsideration process shall occur within one working day of the  
42 receipt of the request and shall be conducted between the provider rendering the service and the  
43 clinical peer reviewer. If the adverse determination is not reversed by the reconsideration  
44 process, the provider may pursue the appeal process.

45 SECTION 5: The Office of Medicaid shall promulgate regulations to implement the provisions  
46 of this Act no later than 90 days after the effective date of the Act.