

## External Review for Protected Services<sup>1</sup>

If the Trustees deny your appeal, you may further elect to have the adverse appeal determination reviewed by an Independent Review Organization (IRO) but only if your appeal involves Protected Services, as defined on page 92 of the SPD. If you elect to do so, you must file a written request for an external review of an adverse internal appeal decision with the Fund Office within four (4) months after the date of receipt of a notice of an adverse benefit determination involving Protected Services on internal appeal. Send your written request to:

Board of Trustees  
Operating Engineers Local 139 Health Benefit Fund Office of the  
Administrative Manager  
N27 W23233 Roundy Drive  
P.O. Box 160  
Pewaukee, Wisconsin 53072

Within five (5) business days following the date of receipt of the external review request, the Fund Office will complete a preliminary review of the request to determine whether:

- You, or your Dependent, was covered under the Plan at the time the health care item or service was provided;
- The adverse benefit determination on appeal does not relate to your, or your Dependent's, failure to meet the requirements for eligibility under the terms of the Plan (*e.g.*, worker classification or similar determination);
- You, or your Dependent, exhausted the Plan's internal appeal process; and
- You, or your Dependent, has provided all the information and forms required to process an external review.

Within one (1) business day after completion of the preliminary review, the Fund will issue a notification in writing to you regarding whether your claim is eligible for external review. If the request is complete, but not eligible for external review, such notification will include the reasons for its ineligibility and contact information for the Employee Benefits Security Administration (toll-free number 866-444-EBSA (3272)). If the request is not complete, such notification shall describe the information or materials needed to make the request complete, and the Fund must allow you to perfect the request for external review within the four-month filing period or within the 48-hour period following the receipt of the notification, whichever is later. If the request is complete and eligible for review, the Fund will assign the matter for external review as described below.

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<sup>1</sup> For the definition of any capitalized word or phrase, please refer to the Glossary in the Summary Plan Description (SPD), which begins on page 86 of the SPD.

The Fund will assign an IRO to conduct the external review. The IRO will notify you in writing of the request's eligibility and acceptance for external review. You may submit additional information in writing to the IRO within ten (10) business days that the IRO must consider when conducting the external review.

The Fund Office will provide documents and any information considered in making the adverse benefit determination or final, internal, adverse benefit determination to the IRO.

The IRO will review all the information and documents timely received and is not bound by the Fund's prior determination. The IRO may consider the following in reaching a decision:

- Your medical records;
- The attending health care professional's recommendation;
- Reports from appropriate health care professionals and other documents submitted by the Plan Administrator, you, or your treating provider;
- The terms of the Plan;
- Evidence-based practice guidelines;
- Any applicable clinical review criteria developed and used by the Plan Administrator; and
- The opinion of the IRO's clinical reviewer or reviewers after considering information noted above as appropriate.

The IRO will provide written notice of the final external review decision within forty-five (45) days after the IRO receives the request for external review. The notice will contain a general description of the reason for the request for external review and a discussion of the principal reason or reasons for its decision, including the rationale for its decision and any evidence-based standards that were relied on in making its decision. If there is a reversal of the Fund's decision, upon receipt of the notice of final external review decision reversing the adverse benefit determination, the Fund will immediately provide coverage or payment (including immediately authorizing or immediately paying benefits) for the claim. If the Fund disagrees with the IRO's determination, it may sue you or your representative to recover the benefits paid after the IRO's determination.

An external review does not extend the time to file an action in court under ERISA, as described in the "Appeal Decisions" section on pages 74-75 of the SPD. For purposes of calculating the one year (12 months) time period for initiating a lawsuit, the IRO's determination is not considered to be the Fund's determination. That is, the one year (12 months) runs from the date of the Fund's determination, not the IRO's determination.