

## Election of Federal External Review Process by Self-Insured, Non-Federal Governmental Plans

HHS recently altered the process that non-grandfathered, self-insured, non-federal governmental plans must use to elect the federal external review process. Rather than emailing HHS its election, a plan will notify HHS through the Health Information Oversight System.

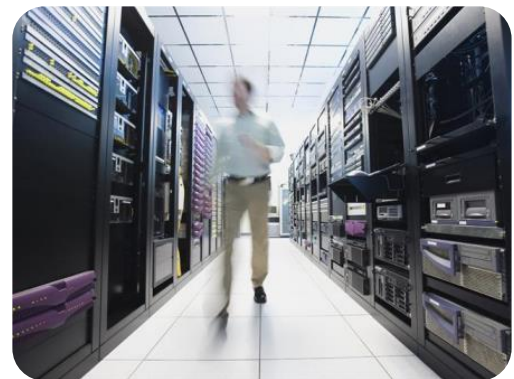
### Background

The Affordable Care Act (ACA) expanded the internal and external claims and appeals requirements for non-grandfathered group health plans by requiring them to incorporate an internal appeals process that satisfies the claims regulations under ERISA, and to include an external process that complies with state or federal law, depending on the type of plan. (See our [August 11, 2010](#) *For Your Information*.)

Generally a state's external review process applies to self-insured, non-federal governmental plans that are subject to state insurance laws. If the applicable state law does not provide for an external review process or if the state process fails to meet certain minimum standards, those plans must comply with the federal external review process. In that case, the plan may elect to comply with either an HHS-administered external review or the private accredited independent review organization (IRO) process that applies to ERISA plans. The election process involves emailing HHS a statement as to whether the plan will comply with the HHS-administered process or the private accredited IRO process, and providing contact information for the plan administrator (name, mailing address, telephone number, fax number and email address). (See our [August 4, 2011](#) *For Your Information*.)

### New Means of Making an Election

In June, HHS issued [guidance](#) modifying the election process. Rather than emailing HHS, self-insured, non-federal governmental plans choosing the federal external review process must submit information about that election to HHS via the Health Information Oversight System (HIOS). This information must be submitted by the date on which the plan intends to start using the federal review process.



**Comment.** If a plan has previously provided the election information and there have been no changes, no further action is required. Any subsequent changes must be made through HIOS.

To begin the process, users register through the [Enterprise Identity Management](#) (EIDM) system to access HIOS, request access to the External Review Election Module (Module), and choose the “Submitter” role. Users will receive email notification once access to the Module has been approved and may then access the Module and submit the external review election. A copy of the HIOS External Review Election Module User Manual is available for download in the Module in HIOS.

#### Questions?

The CMS help desk is available to answer questions about accessing HIOS through [email](#) or by calling 1.855.CMS.1515.

## Additional Notice Requirements

In addition to the new election process, if a plan is using the HHS-administered process, notices to individuals about the claims and appeals process must include a statement that the claimant may request an external review in writing by sending it electronically to the HHS-administered external review contractor. Contractor contact information is on the [Center for Consumer Information & Insurance Oversight](#) website.

## In Closing

Non-grandfathered, self-insured, non-federal governmental plans electing to comply with either the HHS-administered external review process or the private accredited independent review organization (IRO) process must now make that election through HIOS, rather than by email. Unless changes are required, plans that previously made this election need not do anything further at this time.

#### Authors

Kimberley Mitchell, JD  
Amy Dunn, JD

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