**20:06:53:04.  Content of notices.** The health carrier shall include in the notice required under § 20:06:53:03:

(1)  For a notice related to an adverse determination, a statement informing the covered person that:

(a)  If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in SDCL 58-17I-12 to 58-17I-15, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may file a request for an expedited external review to be conducted pursuant to §§ 20:06:53:23 to 20:06:53:32, inclusive, or §§ 20:06:53:33 to 20:06:53:54, inclusive;

(b)  If:

(i)    The adverse determination involves a denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational and the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the adverse determination would be significantly less effective if not promptly initiated; and

(ii)   At the same time the covered person or the covered person's authorized representative files a request for an expedited review of a grievance involving an adverse determination as set forth in SDCL 58-17I-12 to 58-17I-15, inclusive, then the independent review organization assigned to conduct the expedited external review will determine whether the covered person is required to complete the expedited review of the grievance prior to conducting the expedited external review; and

(c)  The covered person or the covered person's authorized representative may file a grievance under the health carrier's internal grievance process as set forth in SDCL 58-17I-1 to 58-17I-16, inclusive, but if the health carrier has not issued a written decision to the covered person or the covered person's authorized representative within 30 days following the date the covered person or the covered person's authorized representative files the grievance with the health carrier and the covered person or the covered person's authorized representative has not requested or agreed to a delay, the covered person or the covered person's authorized representative may file a request for external review pursuant to § 20:06:53:06 and shall be considered to have exhausted the health carrier's internal grievance process for purposes of §§ 20:06:53:07 to 20:06:53:11, inclusive; and

(2)  For a notice related to a final adverse determination, a statement informing the covered person that:

(a)  If the covered person has a medical condition where the timeframe for completion of a standard external review pursuant to §§ 20:06:53:12 to 20:06:53:22, inclusive, would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the covered person or the covered person's authorized representative may file a request for an expedited external review pursuant to §§ 20:06:53:23 to 20:06:53:32, inclusive; or

(b)  If the final adverse determination concerns:

(i)    An admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility, the covered person or the covered person's authorized representative may request an expedited external review pursuant to §§ 20:06:53:23 to 20:06:53:32, inclusive; or

(ii)   A denial of coverage based on a determination that the recommended or requested health care service or treatment is experimental or investigational, the covered person or the covered person's authorized representative may file a request for a standard external review to be conducted pursuant to §§ 20:06:53:33 to 20:06:53:53, inclusive, or if the covered person's treating physician certifies in writing that the recommended or requested health care service or treatment that is the subject of the request would be significantly less effective if not promptly initiated, the covered person or the covered person's authorized representative may request an expedited external review to be conducted under §§ 20:06:53:33 to 20:06:53:53, inclusive.

**Source:** 37 SDR 48, effective September 22, 2010; 37 SDR 241, effective July 1, 2011.

**General Authority:** SDCL 58-17-87, 58-17H-49, 58-17I-16, 58-18-79.

**Law Implemented:** SDCL 58-17-87, 58-18-79.