HOUSE DOCKET, NO. 475 FILED ON: 1/18/2011

# HOUSE . . . . . No. 337

## The Commonwealth of Massachusetts

PRESENTED BY:

***Stephen Kulik***

*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:

An Act administering national standards to medicaid medical necessity reviews.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Stephen Kulik* | *1st Franklin* |

HOUSE DOCKET, NO. 475 FILED ON: 1/18/2011

# HOUSE . . . . . No. 337

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 337) of Stephen Kulik relative to the reconsideration or appeal of adverse determinations made in Medicaid medical necessity reviews. Health Care Financing.

## The Commonwealth of Massachusetts

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:*

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

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

"Clinical peer reviewer", a physician or other health care professional, other than the physician or other health care professional who made the initial decision, who holds a non-restricted license from the appropriate professional licensing board in the commonwealth, a current board certification from a specialty board approved by the American Board of Medical Specialties or of the Advisory Board of Osteopathic Specialists from the major areas of clinical services or, for non-physician health care professionals, the recognized professional board for their specialty, who also actively practices in the same or similar specialty as typically manages the medical condition, procedure or treatment under review, and whose compensation does not directly or indirectly depend upon the quantity, type or cost of the services that such person approves or denies.

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

SECTION 3. Section 48 of said chapter 118E, as so appearing, is hereby amended by striking out the sixth sentence in the third paragraph and inserting in pace thereof the following new sentence

23 The referee, or hearing officer, shall base his or her decision on the testimony, evidence,
24 materials, legal rules, any relevant national evidence based medical standards or criteria
25 presented by the healthcare provider, and the determination of the treating healthcare provider
26 related to the services provided to the recipient of medical assistance that are adduced at the
27 hearing. Such decision shall further provide a substantive determination for any adverse decision
28 against the healthcare provider.

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

31 Upon making an adverse determination regarding an admission, procedure or service, the
32 division shall provide a written notification of the adverse determination that shall include a
33 substantive clinical justification therefor that is consistent with generally accepted principles of
34 professional medical practice, and shall, at a minimum: (1) identify the specific information upon
35 which the adverse determination was based; (2) discuss the medical assistance recipient's
36 presenting symptoms or condition, diagnosis and treatment interventions and the specific reasons
37 based on national evidence based medical standards and criteria that such medical evidence fails
38 to meet a national evidence based medical standard and criteria; (3) specify any alternative
39 treatment option offered by the division, if any; and (4) reference and include applicable clinical
40 practice guidelines and review criteria. The division shall give a provider treating a medical
41 assistance recipient an opportunity to seek reconsideration of an adverse determination from a
42 clinical peer reviewer. The reconsideration process shall occur within one working day of the
43 receipt of the request and shall be conducted between the provider rendering the service and the
44 clinical peer reviewer. If the adverse determination is not reversed by the reconsideration
45 process, the provider may pursue the appeal process.

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