

GOVERNMENT OF THE DISTRICT OF COLUMBIA



**“Health Benefits Plan Members Bill of Rights Amendment Act of 2011”
Hearing**

Testimony of

Dr. Linda Elam

Deputy Director

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John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 2004

Good morning Chairperson Alexander and members of the Committee on Public Services and Consumer Affairs. I am Dr. Linda Elam, Deputy Director of the Department of Health Care Finance. Thank you for the opportunity to provide testimony in support of the *Health Benefits Plan Members Bill of Rights Amendment Act of 2012*.

The Office of the Health Care Ombudsman and Bill of Rights sits within the Office of the Director at the Department of Health Care Finance. This office is the entity within the District of Columbia where members of health insurance plans can go to when they want to appeal a denial of coverage for health care services.

When an individual makes an appeal to the Office of Health Care Ombudsman and Bill of Rights, the Office reviews the supporting documents and forwards the information to an Independent Review Organization (IRO). If the IRO determines that the individual was improperly denied coverage of medically necessary covered services, it will recommend to the Office of Health Care Ombudsman and Bill of Rights the appropriate covered health services the individual should receive. The *Health Benefits Plan Members Bill of Rights Act of 1998* governs the work of this office.

Almost two years ago, the Patient Protection and Affordable Care Act (ACA) was passed by Congress, setting forth a number of new standards for states related to health care, including health insurance related grievance and appeals. The legislation under

consideration today is an important step towards compliance with the new federal requirements set forth under the ACA.

Specifically, Section 2719 of the ACA requires all individual and group health plans to provide a process for consumers who are dissatisfied with a coverage or claims determination to appeal the decision. First, the plans must provide a process whereby the consumers can appeal to the plan itself. Second, the plans must comply with either a state or federal process for consumers to appeal the plan's decision to an external review organization that is independent of the health plan. Third, the external review organization's decision must be binding on the health plan. States that are not compliant must defer to a federal external appeals process.

The federal government, through rulemaking, has identified sixteen (16) minimum consumer protections that must be incorporated into state external appeals rules by January 1, 2014, in order for plans to continue using the state appeals process. The standards are drawn from the National Association of Insurance Commissioners (NAIC) Uniform Model Act. The protections address appeal rights, notice of rights, and appeals processes.

The federal rules also set forth a preliminary set of thirteen (13) minimum protections that states had to implement before January 1, 2012. The District's existing grievance and appeal process was found mostly sufficient to meet the 13 minimum protections

required by January 1, 2012. Through emergency and temporary legislation passed in September and October of 2011, the period for filing an appeal was extended to four (4) months and the decision of the reviewer was made binding. These additions, along with changes to the existing IRO contracts, ensured that the District met the January 2012 deadline.

As a result, the District maintains its grievance and appeals process. If the District fails to implement the remaining federal requirements by January 1, 2014, plans must use a federally administered process. The *Health Benefits Plan Members Bill of Rights Amendment Act of 2012* ensures that the District remains compliant with federal law when the temporary legislation expires. Finally, the *Health Benefits Plan Members Bill of Rights Amendment Act of 2012* also strengthens the protections for consumers related to mental health services.

Thank you for the opportunity to testify before this Committee this morning.