Policy and Standards

Policy Number:	**CO.1.CA.05-2020**
Policy Name:	**Independent Medical Review**
Review Type:	No Changes
Contract or Regulatory Reference: (include citation if applicable)	*CA Health and Safety Code §§1370.4; 1374.30;* *28 CCR §§1300.74.30 and 1300.71.4* *CA Insurance Code §§10123.195; 10145.3; 10169;*

Policy Approvals

Shareh Ghani, MD	*Approval on file*	7/22/2020
HAI-CA, Magellan Employer Services, Chief Medical Officer		Date
Annette Sumrall	*Approval on file*	7/22/2020
HAI-CA, Magellan Employer Services, Sr. Director, Clinical Care Services		Date

Product Applicability: *(For Health Insurance Marketplaces, policies and procedures are the same, unless contractual requirements dictate a more stringent variation in which case customized documents are created.)*

Commercial
Medicare Part: C (Medicare Advantage)
Medi-Cal

Business Division and Entity Applicability:

Magellan Healthcare

Human Affairs International of California (HAI-CA)

Magellan Health Services of California, Inc.-Employer Services (Magellan Employer Services)

*Except as otherwise noted, all references in this policy to "Magellan" refer to HAI-CA and Magellan Employer Services.

Policy Statement

Magellan* provides procedures for the expeditious processing of requests for external appeal of adverse determinations through an Independent Review Organization as required by applicable law or customer contract.

Purpose

To establish standards to assure independent and timely review of disputed health care services to assure that appropriate, beneficial treatment interventions are made available to members.

Policy Terms & Definitions Glossary

Key Terms *(as used in this policy)*

Coverage Decision

An administrative determination; the approval or denial of health care services, substantially based on a finding that the provision of a particular service is included or excluded as a covered benefit under the terms and conditions of the health care service plan contract or insurance contract (e.g., exhaustion of benefits, non-compliance with the plan requirements such as failure to pre-certify as allowed by state law, insufficient information to render a medical necessity determination within required decision timeframes). A coverage decision is not a decision on medical necessity. See also the definition of "Administrative Determination" in Policies Terms & Definitions Glossary.

Disputed Health Care Service

Any health care service eligible for coverage and payment that has been denied, modified, or delayed, in whole or in part due to a finding that the service is not medically necessary where (1) the service involves the practice of medicine (i.e., services of a psychiatrist or inpatient services) and/or the service is covered under a carve-out contract with a Health Plan. A decision regarding a disputed health care service relates to the practice of medicine and is not a coverage decision. (CA Health & Safety Code §1374.30(b) & Insurance Code §10169(b))

Imminent and Serious Threat to Health of a Member

A condition involving threat to the health of a member including, but not limited to, serious pain, the potential loss of life, limb, or major bodily function, or the immediate serious deterioration of the health of the member.

Independent Medical Review (IMR)

An external, independent review process to examine non-authorization decisions regarding 1) experimental or investigational treatments; or 2) disputed health care services. (CA Health & Safety Code §§1370.4(a) & 1374.30(d)(1) and Insurance Code §§10145.3 & 10169(d)(1))

Independent Medical Review Organization (IRO)

An entity that conducts independent medical reviews of non-authorization determinations. For non-authorization determinations based on medical necessity or experimental or investigational treatment in connection with California members, the IRO is contracted with, and appointed by, the Department of Managed Health Care (DMHC) or the California Department of Insurance (CDI).

Life-threatening Condition

A disease or condition where 1) the likelihood of death is high unless the course of the disease is interrupted; and/or 2) the outcome is potentially fatal and the end point of intervention is survival. (CA Health & Safety Code §1370.4(a)(1)(B) & Insurance Code §10123.195(d)(1))

Medical and Scientific Evidence
Evidence that is from one or more of the following sources: 1) peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; 2) peer-reviewed literature, biomedical compendia, and other medical literature that met criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base Health Services Technology Assessment Research (HSTAR); 3) medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act; 4) the following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; 5) findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services; and 6) peer-reviewed abstracts accepted for presentation at major medical association meetings. (CA Health & Safety Code §1370.4(d)(1)-(7) & Insurance Code §10145.3(d)(1)-(7))

Seriously Debilitating Condition
A disease or condition that causes major irreversible morbidity. (CA Health & Safety Code §1370.4(a)(1)(C) & Insurance Code §10145.3(a)(1)(C))

Additional Policy Terms & Definitions are available should the reader need to inquire as to the definition of a term used in this policy.

To access the *Policy Terms & Definitions Glossary* in C360, click on the below link: *(internal link(s) available to Magellan Health employees only)*

Policy Terms & Definitions Glossary

Standards

I. General Standards

A. Magellan cooperates with the California DMHC and the CDI in enabling eligible members to obtain IMRs.

B. Magellan or Magellan's customer health plan includes information regarding the right to an IMR in evidence of coverage forms, member handbooks and relevant brochures, and contracts with customers, as applicable, and in plan procedures for resolving appeals, non-authorization notices, appeal forms, and on written responses to appeals.

C. Magellan provides eligible members notice of the IMR process and of the possible forfeiture of any statutory right they may have to pursue legal action against Magellan in connection with the treatment that was not authorized if they fail to participate in the IMR process. (CA Health & Safety Code §1374.30(i)&(m) & Insurance Code §10169(m))

1. Whenever Magellan issues a non-authorization, Magellan's denial notice includes notice of the member's right to seek an IMR. Such notice includes information on the IMR process, an IMR application, an envelope addressed to the DMHC or CDI, as

applicable, the toll-free number of the DMHC or the CDI. (An IMR application is also available on the DMHC website at www.dmhc.ca.gov or at the CDI website at www.insurance.ca.gov, as applicable.)

2. Whenever Magellan issues an appeal determination upholding a non-authorization decision, Magellan furnishes to eligible members, along with the appeal determination, an IMR application approved by the DMHC or CDI, an envelope addressed to the DMHC or CDI, as applicable. (An IMR application is also available on the DMHC website at www.dmhc.ca.gov or at the CDI website at www.insurance.ca.gov, as applicable.)

D. A member may designate an agent to act on his/her behalf in connection with a request for an IMR. The provider may join with or otherwise assist the member in seeking an IMR and may advocate on behalf of the member. (CA Health & Safety Code §1374.30(e) & Insurance Code §10169(e))

E. No processing or application fee is charged the member for access to an IMR. (CA Health & Safety Code §1374.30(l) & Insurance Code §10169(l))

F. Magellan staff who is involved in processing IMR requests maintains confidentiality in accordance with applicable state and federal law. (CA Health & Safety Code §1374.30(n)(1)(B) & Insurance Code §10169(n)(1)(B))

G. Magellan does not engage in any conduct that is aimed at prolonging the IMR process.

II. Eligibility for IMR

A. Treatment Non-authorized as Experimental or Investigational (CA Health & Safety Code §1370.4(a)(1)(a), (a)(2), (a)(3) & (a)(5) & Insurance Code §10145.3(a)(1)-(a)(3) & (a)5))

1. IMR is available to any member who meets all of the following criteria:

a) Magellan has denied authorization of a procedure or other treatment on the basis that such procedure or treatment is experimental or investigational; and

b) The member has a life-threatening or seriously debilitating condition; and

c) The specific treatment would be covered under the member's plan except for Magellan's determination that the treatment is experimental or investigational; and

d) The member's provider certifies that (i) standard treatments have not been effective in improving the member's condition, (ii) standard treatments would not be medically appropriate for the member, or (iii) there is no more beneficial standard therapy covered by the plan than the requested treatment; and

e) The treatment is likely to be more beneficial than any standard therapy, according to:

i. Written certification of the member's provider, who is a Magellan network provider who has recommended the treatment; or

ii. A request for authorization of treatment by the member or the member's provider, who is a licensed, board-certified physician qualified to practice in the area of practice appropriate to the member's condition, and as demonstrated by at least two (2) documents from the medical and scientific evidence; and

f) The DMHC or CDI, as applicable, has determined that the member is eligible for IMR.

2. Members are not required to participate in Magellan's appeal process prior to initiating a request for an IMR.

a) In accordance with 28 CCR §1300.74.30(a), the DMHC shall be the final arbiter when there is a question as to whether a dispute over a health care service is eligible for independent medical review, and whether extraordinary and compelling circumstances exist that waive the requirement that the member first participate in the Plan's grievance system.

b) In accordance with 28 CCR §1300.74.30(b), the DMHC may waive the requirement that the member participate in the plan's grievance process if the Department determines that extraordinary and compelling circumstances exist, which include, but are not limited to, serious pain, the potential loss of life, limb or major bodily function, or the immediate, and serious deterioration of the health of the member.

c) In accordance with 28 CCR §1300.74.30(c), in cases involving a claim for out of plan emergency or urgent services that providers determined were medically necessary, the independent medical review shall determine whether the services were emergency or urgent services necessary to screen and stabilize the member's condition as defined in section 1300.71.4 of title 28.

B. Disputed Health Care Services

1. The member may apply to the DMHC or CDI for an IMR within six (6) months of any of the qualifying periods or events below. The director may extend the application deadline beyond six (6) months if the circumstances of a case warrant the extension. (CA Health & Safety Code §1374.30(k) & Insurance Code §10169(k))

2. IMR is available to any member who meets all of the following criteria: (CA Health & Safety Code §1374.30(j)(1)-(3) & Insurance Code §10169(j)(1)-(3))

a) Magellan has denied, modified, or delayed authorization of a disputed health care service on the basis that the health care service is not medically necessary; and

b) One or more of the following criteria is met:

i. The member's provider has recommended a health care service as medically necessary; or

ii. The member has received urgent care or emergency services that a provider has determined was medically necessary; or

iii. The member has been seen by a participating provider for the diagnosis or treatment of the medical condition for which the member seeks independent review, whether or not the participating provider has recommended the disputed health care service; or

iv. The member filed a grievance and the decision was not provided within thirty (30) calendar days or, in the case of an expedited grievance, was not provided within three (3) calendar days; and

c) The DMHC or CDI has determined that the member is eligible for IMR.

III. IMR Process

A. Within three (3) business days of receipt of notice from the DMHC or CDI of a request for an IMR (CA Health & Safety Code §1374.30(n), 28 CCR §1300.74.30(j), & Insurance Code §10169(n)) or within twenty-four (24) hours in the case of an expedited review, Magellan provides to the IRO a copy of the following documents:

1. Complete, legible copy of all medical records and other information in Magellan's possession relevant to each of the following:
   a) The member's condition for which the disputed health care service is requested; and
   b) The health care services being provided by Magellan and participating providers for the condition; and
   c) The disputed health care services requested for the condition.
2. Copy of all correspondence from and received by Magellan concerning the treatment, including all appeal correspondence;
3. Copy of the cover page of the evidence of coverage form and complete pages with the referenced sections highlighted or underlined sections, if the evidence of coverage was referenced in Magellan's resolution of the appeal;
4. Magellan's response to any additional issues raised in the member's application for an IMR;
5. All information provided to the member and any participating providers concerning Magellan decisions regarding the member's condition and care, including the written response to the member's appeal of Magellan's non-authorization of the disputed health care service;
6. Copy of all information submitted to Magellan by the member or the member's provider in support of the request for coverage of the treatment; and
7. Copy of any other relevant documents or information used by Magellan in making the determination that the treatment is experimental or investigational or is not medically necessary, including any statements by Magellan explaining the reasons for the decision to deny, modify, or delay the disputed health care service on the basis of medical necessity or experimental/investigational.

B. As per 28 CCR §1300.74.30(k)(1)&(2), any additional medical records or other information not available at the time of the initial submission that is received, discovered, or generated is submitted to the external review organization as soon as possible, but not to exceed five (5) business days in routine cases or one (1) calendar day in expedited cases. Per the Insurance Code §10169(n)(1)(B) for insured members, submission should occur immediately. Any additional medical records or other information requested by the external review organization shall be sent by the plan within five (5) business days in routine cases or one (1) calendar day in expedited cases. In expedited reviews, the health care plan shall immediately notify the member and the member's health care provider by telephone or facsimile to identify and request the necessary information, followed by written notification, when the request involves materials not in the possession of the plan or its contracting providers.

C. Following submission of the documents identified in A.1.–7, above to the IRO, Magellan promptly sends to the member an annotated list of the documents and offers the member an opportunity to request copies of the documents. Except for information found by the director of the DMHC to be legally privileged, Magellan provides a copy of each requested

document to the member and/or the member's provider. (CA Health & Safety Code §1374.30(n)(3) & Insurance Code §10169(n)(3)).

D. Magellan considers the determination of the IRO panel binding. No further appeals are available to the member in connection with the requested treatment. The Care Manager documents the IRO panel determination in the utilization management case record.

1. If the IRO panel reverses Magellan's determination (i.e., determines that the requested treatment *is* medically necessary or is likely to be more beneficial for the member than any available standard therapy, as applicable), Magellan sends an authorization to the member within five (5) business days of receipt of the IRO panel determination in accordance with standard utilization management processes (CA Health & Safety Code §1367.01(h)(1)&(3) and Insurance Code §10123.135(h)(1)&(3)). The Plan also communicates the IRO decision to the requesting provider within 24 hours of receipt of the decision from the IRO. If the treatment was rendered prior to the IMR, Magellan pays the claims in connection with such treatment in accordance with standard claims processing procedures within five (5) business days of the later of receipt of the IRO panel determination and receipt of the claims.

2. If the IRO panel upholds Magellan's determination (i.e., determines that the requested treatment *is not* medically necessary or *is* experimental or investigational), the Care Manager closes the case in connection with the requested treatment.

Cross Reference(s)

Comment Process; Member Appeal Rights & Review Process, UM General Guidelines; Commercial Benefit Certification Determination

Policy Life History

Date of Inception: July 1, 2000	**Previous Review Date:** January 7, 2019	**Current Review Date:** June 1, 2020
Previous Approval Date: February 12, 2019	**Current Approval Date:** July 22, 2020	

Associated Forms & Attachments *(internal link(s) available to Magellan employees only)*

DMHC IMR Application
CDI IMR Application

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