

U.S. Department of Health and Human Services

Office of Consumer Information and Insurance Oversight
Washington, D.C. 20201

TECHNICAL GUIDANCE- SEPTEMBER 23, 2010

DATE: SEPTEMBER 23, 2010

SUBJECT: INTERIM PROCEDURES FOR FEDERAL EXTERNAL REVIEW RELATING TO INTERNAL CLAIMS AND APPEALS AND EXTERNAL REVIEW UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT FOR SELF-INSURED NON-FEDERAL GOVERNMENTAL HEALTH PLANS

This technical guidance sets forth an interim enforcement safe harbor for non-grandfathered, self-insured, non-federal governmental health plans not subject to a state or territory external review process, and therefore subject to the federal external review process. This interim enforcement safe harbor applies for plan years (in the individual market, policy years) beginning on or after September 23, 2010 and until superseded by future guidance on the federal external review process that is being developed and that will apply after this interim period. During the period that this interim enforcement safe harbor is in effect, HHS will not take any enforcement action against a self-insured non-federal governmental health plan that complies with Technical Release 2010-01 issued by the Department of Labor on August 23, 2010 (available at <http://www.dol.gov/ebsa/pdf/ACATechnicalRelease2010-01.pdf>). For self-insured non-federal governmental health plans in territories and states without external review processes (Alabama, Mississippi, and Nebraska) in effect on or before September 23, 2010, these plans must either contract with Independent Review Organizations as set forth in this Technical Release 2010-01 or use the interim federal external review process for health insurance issuers in states without external review laws as established in the technical guidance available at http://www.hhs.gov/ociio/regulations/consumerappeals/interim_appeals_guidance.pdf