

**WAC 284-43-3130 Exhaustion of internal review remedies.** (1) If a carrier fails to strictly adhere to its requirements with respect to the internal review, the internal review process is deemed exhausted, and the appellant may request external review without receiving an internal review determination from the carrier or the health plan.

(2) A carrier may challenge external review requested under this section on the basis that its violations are de minimis, and do not cause and are not likely to cause, prejudice or harm to the appellant. The carrier or health plan may challenge external review on this basis either in court or to the independent review organization.

(a) This exception applies only if the external reviewer or court determines that the carrier has demonstrated that the violation was for good cause or was due to matters beyond the control of the carrier, and that the violation occurred in the context of an ongoing, good faith exchange of information between the carrier or health plan and the appellant.

(b) This exception is not available, and the challenge may not be sustained, if the violation is part of a pattern or practice of violations by the carrier or health plan.

(3) The appellant may request a written explanation of the violation from the carrier and the carrier must provide such explanation within ten calendar days, including a specific description of its basis, if any, for asserting that the violation should not cause the internal claims and appeals process to be deemed exhausted.

(4) If the independent review organization or court determines that the internal review process is not exhausted, based on a carrier or health plan's challenge under this section, the carrier or health plan must provide the appellant with notice that they may resubmit and pursue the internal appeal within a reasonable time, not to exceed ten days, of receiving the independent review organization's determination, or of the entry of the court's final order.

[WSR 16-01-081, recodified as § 284-43-3130, filed 12/14/15, effective 12/14/15. Statutory Authority: RCW 48.02.060, 48.43.525, 48.43.530, 48.43.535, and The Patient Protection and Affordable Care Act, P.L. 111-148, as amended (2010). WSR 12-23-005 (Matter No. R 2011-11), § 284-43-530, filed 11/7/12, effective 11/20/12.]