

**CHILDREN'S HEALTH INSURANCE PROGRAM PERINATAL PROGRAM HEALTH BENEFIT PLAN  
FOR UNBORN CHILDREN  
EVIDENCE OF COVERAGE  
HEALTH MAINTENANCE ORGANIZATION  
NON-FEDERALLY QUALIFIED PLAN**

THIS EVIDENCE OF COVERAGE (CONTRACT) IS ISSUED TO YOU, WHOSE UNBORN CHILD HAS ENROLLED IN **TEXAS CHILDREN'S HEALTH PLAN** HEALTH BENEFIT PLAN THROUGH THE CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) PERINATAL PROGRAM. YOU AGREE TO ADHERE TO THESE PROVISIONS FOR COVERED HEALTH SERVICES BY COMPLETING THE ENROLLMENT FORM AND ACCEPTING THIS EVIDENCE OF COVERAGE. THIS DOCUMENT DESCRIBES YOUR RIGHTS AND RESPONSIBILITIES IN RELATION TO YOUR UNBORN CHILD RECEIVING COVERED HEALTH SERVICES AND BENEFITS FROM **TEXAS CHILDREN'S HEALTH PLAN** THROUGH THE CHIP PERINATAL PROGRAM.

Issued by

Texas Children's Health Plan  
P.O. Box 301011,NB-8360  
Houston, TX 77230  
832-828-1002  
1-866-959-6555

In association with:

Children's Health Insurance Program Perinatal Program  
P.O. Box 149276  
Austin, TX 78714-9983  
1-800-647-6558

**1 IMPORTANT NOTICE**

To obtain information or make a complaint:

2. YOU may contact YOUR health plan at 1-866-959-6555.

**TEXAS CHILDREN'S HEALTH PLAN**

3. YOU may call **TEXAS CHILDREN'S HEALTH PLAN'S** toll-free telephone number for information or to make a complaint at

**1-866-959-6555**

4. YOU may also write to **TEXAS CHILDREN'S HEALTH PLAN** at

**P.O. Box 301011, NB-8360  
Houston, TX 77230**

5. YOU may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

**1-800-252-3439**

6. YOU may write the Texas Department of Insurance

P.O. Box 149104  
Austin, TX 78714-9104  
FAX # (512) 475-1771  
Web: <http://www.tdi.texas.gov>  
E-mail: [ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)

7. **PREMIUM OR CLAIM DISPUTES:** Should you have a dispute concerning YOUR premium or about a claim you should contact Texas Children's Health Plan first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

**ATTACH THIS NOTICE TO YOUR POLICY:** This notice is for information only and does not become a part or condition of the attached document.

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## I. INTRODUCTION

### A. YOUR UNBORN CHILD'S Coverage under HEALTH PLAN

HEALTH PLAN provides benefits to YOUR UNBORN CHILD for Covered Health Services under CHIP Perinatal Program and determines whether particular health services are Covered Health Services, as described in **Section IX, SCHEDULE OF BENEFITS, EXCLUDED SERVICES AND COVERED HEALTH SERVICES**, below. If properly enrolled, YOUR UNBORN CHILD is eligible for the benefits described in **Section IX**. All services must be provided by participating Physicians and Providers except for Emergency Services and for out-of-network services that are authorized by HEALTH PLAN. YOU have a Contract with HEALTH PLAN regarding matters stated in this Section I.A, as more fully described in this Contract.

### B. YOUR Contract with CHIP Perinatal Program

CHIP **Perinatal Program** has determined that YOUR UNBORN CHILD is eligible to receive Coverage and under what circumstances the Coverage will end. CHIP Perinatal Program also has determined YOUR UNBORN CHILD'S eligibility for other benefits under the CHIP Perinatal Program.

## II. DEFINITIONS

**ADMINISTRATOR:** The contractor with the State that administers enrollment functions for CHIP Perinatal Program health plans.

**Adverse Determination:** A decision that is made by US or OUR Utilization Review Agent that the health care services furnished or proposed to be furnished to YOUR UNBORN CHILD are not medically necessary or are experimental or investigational.

**CHIP Perinatal Program:** The Children's Health Insurance Program (CHIP) Perinatal Program, which provides Coverage to each UNBORN CHILD in accordance with an agreement between HEALTH PLAN and the Health and Human Services Commission of the State of Texas.

**Covered Health Services or Covered Services or Coverage:** Those Medically Necessary Services that are listed in **Section IX, SCHEDULE OF BENEFITS, EXCLUDED SERVICES AND COVERED HEALTH SERVICES**, of this Health Benefit Plan. Covered Services also include any additional services offered by the HEALTH PLAN as Value Added Services (VAS) in **Section IX SCHEDULE OF BENEFITS, EXCLUDED SERVICES AND COVERED HEALTH SERVICES**, of this Health Benefit Plan.

**Disability:** A physical or mental impairment that substantially limits one or more of an individual's major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and/or working.

**Emergency Behavioral Health Condition:** Any condition, without regard to the nature or cause of the condition, which in the opinion of a prudent layperson possessing an average knowledge of health and medicine:

1. requires immediate intervention and/or medical attention without which the mother of the UNBORN CHILD would present an immediate danger to UNBORN CHILD or others, or
2. that renders the mother of the UNBORN CHILD incapable of controlling, knowing or understanding the consequences of their actions.

**Emergency Condition:** means an Emergency Medical Condition or an Emergency Behavioral Health Condition.

**Emergency Medical Condition:** A medical condition manifesting itself by acute symptoms of recent onset and sufficient severity (including severe pain), such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical care could result in:

1. placing the UNBORN CHILD'S health in serious jeopardy;
2. serious impairment to bodily functions to the UNBORN CHILD;
3. serious dysfunction of any bodily organ or part that would effect the UNBORN CHILD;
4. serious disfigurement to the UNBORN CHILD; or in the case of a pregnant woman, serious jeopardy to the health of a woman or her unborn child.

**Emergency Services and Emergency Care:** covered inpatient and outpatient services furnished by a provider that is qualified to furnish such services and that are needed to evaluate or stabilize an Emergency Medical Condition and/or an Emergency Behavioral Health Condition, including post-stabilization care services related to labor and delivery of the UNBORN CHILD.

**Experimental and/or Investigational:** A service or supply is Experimental and/or Investigational if WE determine that one or more of the following is true:

1. The service or supply is under study or in a clinical trial to evaluate its toxicity, safety or efficacy for a particular diagnosis or set of indications. Clinical trials include but are not limited to Phase I, II and III clinical trials.
2. The prevailing opinion within the appropriate specialty of the United States medical profession is that the service or supply needs further evaluation for the particular diagnosis or set of indications before it is used outside clinical trials or other research settings.

WE will determine if this item 2. Is true based on:

- a. Published reports in authoritative medical literature; and
  - b. Regulations, reports, publications and evaluations issued by government agencies such as the Agency for Health Care Policy and Research, the National Institutes of Health, and the FDA.
3. In the case of a drug, a device or other supply that is subject to FDA approval:
    - a. It does not have FDA approval; or
    - b. It has FDA approval only under its Treatment Investigational New Drug regulation or a similar regulation;
    - c. It has FDA approval, but it is being used for an indication or at a dosage that is not an accepted off-label use. Unlabeled uses of FDA-approved drugs are not considered Experimental or Investigational if they are determined to be:
      - (i) Included in one or more of the following medical compendia: The American Medical Association Drug Evaluations, The American Hospital Formulary Service Drug Information, The United States Pharmacopeia Information and other authoritative compendia as identified from time to time by the Secretary of Health and Human Services; or
      - (ii) In addition, the medical appropriateness of unlabeled uses not included in the compendia can be established based on supportive clinical evidence in peer-reviewed medical publications.
    - d. The Physician's or Provider's institutional review board acknowledges that the use of the service or supply is Experimental or Investigational and subject to that board's approval.
    - e. Research protocols indicate that the service or supply is Experimental or Investigational. This item 5, applies for protocols used by the UNBORN CHILD'S Physician or Provider as well as for protocols used by other Physicians or Providers studying substantially the same service or supply.

**Health Benefit Plan or Plan:** The Coverage provided to the UNBORN CHILD issued by HEALTH PLAN providing Covered Health Services.

**HEALTH PLAN:** Texas Children's Health Plan, otherwise referred to as US, WE, or OUR.

**Home Health Services:** Health services provided at a member's home by health care personnel, as prescribed by the responsible Physician or other authority designated by the HEALTH PLAN.

**Hospital:** A licensed public or private institution as defined by Chapter 241, Texas Health and Safety Code, or in Subtitle C, Title 7, Texas Health and Safety Code.

**Illness:** A physical or mental sickness or disease.

**Independent Review Organization:** An entity that is certified by the Commissioner of Insurance under Chapter 4202 to conduct independent review of Adverse Determinations.

**Initial Admission:** hospitalization from birth including ICU; includes transfers from another hospital to a hospital with an NICU and any readmission that is less than 24 hours post discharge from the initial admission.

**Injury or Accidental Injury:** Accidental trauma or damage sustained by the UNBORN CHILD or the mother of the UNBORN CHILD to a body part or system that is not the result of a disease, bodily infirmity or any other cause and could cause harm to the UNBORN CHILD.

**Life-threatening:** A disease or condition for which the likelihood of death is probable unless the course of the disease or condition is interrupted.

**Medically Necessary Services:** Health services that are:

**Physical:**

- Reasonable and necessary to prevent illness or medical conditions, or provide early screening, interventions, and/or treatments for conditions that cause suffering or pain, cause physical malformation or limitations in function, threaten to cause or worsen a Disability, cause illness or infirmity of an UNBORN CHILD, or endanger life of the UNBORN CHILD;
- Provided at appropriate facilities and at the appropriate levels of care for the treatment of an UNBORN CHILD'S medical conditions;
- Consistent with health care practice guidelines and standards that are issued by professionally recognized health care organizations or governmental agencies;
- Consistent with diagnoses of the conditions;
- No more intrusive or restrictive than necessary to provide a proper balance of safety, effectiveness, and efficiency;
- are not Experimental or Investigative; and
- are not primarily for the convenience of the mother of the UNBORN CHILD or health care provider.

**Behavioral:**

- reasonable and necessary for the diagnosis or treatment of a mental health or Chemical Dependency disorder to improve, maintain, or prevent deterioration of function resulting from the disorder;
- provided in accordance with professionally accepted clinical guidelines and standards of practice in behavioral health care;
- are not Experimental or Investigative; and
- are not primarily for the convenience of the mother of the UNBORN CHILD or health care provider.

Medically Necessary Services must be furnished in the most appropriate and least restrictive setting in which services can be safely provided and must be provided at the most appropriate level or supply of service which can safely be provided and which could not be omitted without adversely affecting the UNBORN CHILD'S physical health and/or or the quality of care provided.

**Member:** Any covered UNBORN CHILD who is eligible for benefits and who is enrolled in the Texas CHIP Perinatal Program.

**Out-of-Area:** Any location outside HEALTH PLAN'S CHIP Perinatal Program Service Area.

**Pediatrician:** A Physician who is board eligible/board certified in pediatrics by the American Board of Pediatrics.

**Physician:** Anyone licensed to practice medicine in the State of Texas.

**Perinatal Program Provider:** A Physician, Physician Assistant, or Advanced Practice Nurse or other qualified health care providers who is contracted with HEALTH PLAN to provide Covered Health Services to an UNBORN CHILD and who is responsible for providing initial and primary care, maintaining the continuity of care, and initiating referrals for care.

**Provider:** Any institution, organization or person, other than a Physician, that is licensed to or otherwise authorized to provide a health care service in this State. The term includes, but is not limited to a hospital, doctor of chiropractic, pharmacist, registered nurse, optometrist, registered optician, pharmacy, clinic, skilled nursing facility, or home health agency.

**Service Area:** CHIP Perinatal Provider Service Area as defined by the Texas Health and Human Services Commission.

**Specialist Physician:** A participating Physician, other than a Perinatal Program Physician, under Contract with HEALTH PLAN to provide Covered Health Services upon referral by the Perinatal Program Provider.

**UNBORN CHILD (CHIP Perinate):** Any child from conception to birth whom the CHIP Perinatal Program has determined to be eligible for Coverage and who is enrolled under this Plan.

**Urgent Behavioral Health Care:** A behavioral health condition that requires attention and assessment within twenty-four (24) hours but that does not place the mother of the UNBORN CHILD in immediate danger to the UNBORN CHILD or others and the mother of the UNBORN CHILD is able to cooperate with treatment.

**Urgent Care:** A health condition including an Urgent Behavioral Health Care that is not an emergency but is severe or painful enough to cause a prudent layperson, possessing the average knowledge of medicine, to believe that her condition as it relates to the UNBORN CHILD requires medical treatment evaluation or treatment within twenty-four (24) hours by the Prenatal Program Provider or the Prenatal Program Provider's designee to prevent serious deterioration of the UNBORN CHILD's condition or health.

**Usual and Customary Charge:** The usual charge made by a group, entity, or person who renders or furnishes covered services, treatments or supplies; provided the charge is not in excess of the general level of charges made by others who render or furnish the same or similar services, treatments or supplies.

**Utilization Review:** The system for retrospective, concurrent, or prospective review of the medical necessity and appropriateness of Covered Health Services provided, being provided, or proposed to be provided to an UNBORN CHILD. The term does not include elective requests for clarification of coverage.

**Utilization Review Agent:** An entity that is certified by the Commissioner of Insurance to conduct Utilization Review.

**YOU and YOUR:** Mother of the UNBORN CHILD.

### **III. WHEN DOES AN ENROLLED UNBORN CHILD BECOME COVERED?**

Coverage of the UNBORN CHILD begins on the first day of the month in which the UNBORN CHILD is determined eligible for the CHIP Perinatal Program.

### **IV. COST-SHARING**

No enrollment fees or cost sharing (such as co-pays) are required for CHIP Perinatal covered services.

### **V. TERMINATION OF AN UNBORN CHILD'S COVERAGE**

#### **A. Disenrollment due to loss of CHIP Perinatal Program eligibility**

Disenrollment may occur if your UNBORN CHILD loses CHIP Perinatal Program eligibility. Your UNBORN CHILD may lose CHIP Perinatal Program eligibility for the following reasons:

1. Change in health insurance status, e.g., a parent of an UNBORN CHILD enrolls in an employer-sponsored health plan;
2. Death of an UNBORN CHILD;
3. Mother of UNBORN CHILD permanently moves out of the State;
4. UNBORN CHILD'S parent or Authorized Representative requests (in writing) the voluntary disenrollment of an UNBORN CHILD;
5. Mother of UNBORN CHILD is enrolled in Medicaid or Medicare.

#### **B. Disenrollment by HEALTH PLAN**

Your UNBORN CHILD may be disenrolled by US, subject to approval by the Health and Human Services Commission, for the following reasons

1. Fraud or intentional material misrepresentation made by YOU after 15 days written notice;
2. Fraud in the use of services or facilities after 15 days written notice;
3. Misconduct that is detrimental to safe Plan operations and the delivery of services;
4. Mother of the UNBORN CHILD no longer lives or resides in the Service Area.
5. Mother of UNBORN CHILD is disruptive, unruly, threatening or uncooperative to the extent that UNBORN CHILD's membership seriously impairs HEALTH PLAN's or Provider's ability to provide services to the UNBORN CHILD or to obtain a new members, and the mother of the UNBORN CHILD's behavior is not caused by a physical or behavioral health condition.

6. Mother of the UNBORN CHILD steadfastly refuses to comply with HEALTH PLAN restrictions (e.g., repeatedly using emergency room in combination with refusing to allow HEALTH PLAN to treat the underlying medical condition).

We will not disenroll an UNBORN CHILD based on a change in the UNBORN CHILD'S health status, diminished mental capacity of the mother of the UNBORN CHILD, or because of the amount of Medically Necessary Services that are used to treat the UNBORN CHILD'S condition. WE will also not disenroll an UNBORN CHILD because of uncooperative or disruptive behavior resulting from the mother of the UNBORN CHILD's special needs, unless this behavior seriously impairs OUR ability to furnish services to the UNBORN CHILD or other enrollees.

## **VI. YOUR UNBORN CHILD'S HEALTH COVERAGE**

### **A. Selecting YOUR UNBORN CHILD'S Perinatal Program Provider**

YOU shall, at time of enrollment in the HEALTH PLAN, select YOUR UNBORN CHILD'S Perinatal Program Provider. You may select an Obstetrician/Gynecologist (OB/GYN) to provide Covered Health Services within the scope of the professional specialty practice of the OB/GYN. The selection shall be made from those Physicians and Providers listed in HEALTH PLAN'S published list of Physicians and Providers. YOU have the option to choose a Family Practice Physician with experience in prenatal care, or other qualified health care Providers as a Perinatal Program Provider.

YOU shall look to the selected Perinatal Program Provider to direct and coordinate your UNBORN CHILD'S care, and recommend procedures and/or treatment.

### **B. Changing YOUR UNBORN CHILD'S Perinatal Program Provider**

YOU may request a change in YOUR UNBORN CHILD'S Perinatal Program Provider. YOUR request must be made to HEALTH PLAN at least thirty (30) days prior to the requested effective date of the change.

### **C. Emergency Services**

When you are taken to a Hospital emergency department, free-standing emergency medical facility, or to a comparable emergency facility for care directly related to the labor or delivery of your covered UNBORN CHILD, the treating Physician/Provider will perform a medical screening examination to determine whether a medical Emergency directly related to the labor with delivery of the covered UNBORN CHILD exists and will provide the treatment and stabilization of an Emergency Condition.

If additional care directly related to the labor and delivery of the covered UNBORN CHILD is required after the UNBORN CHILD is stabilized, the treating Physician/Provider must contact HEALTH PLAN. HEALTH PLAN must respond within one hour of receiving the call to approve or deny Coverage of the additional care requested by the treating Physician/Provider.

If HEALTH PLAN agrees to the care as proposed by the treating Physician/Provider, or if HEALTH PLAN fails to approve or deny the proposed care within one hour of receiving the call, the treating Physician/Provider may proceed with the proposed care. Post-delivery services or complications resulting in the need for emergency services for the mother of the CHIP Perinatal newborn are not a covered benefit.

YOU should notify HEALTH PLAN within twenty-four (24) hours of any out-of-network Emergency Services, or as soon as reasonably possible.

### **D. Out-of-Network Services**

If Covered Health Services are not available to YOUR UNBORN CHILD through network Physicians or Providers, HEALTH PLAN, upon the request of a network Physician or Provider, shall allow referral to an out-of-network Physician or Provider and shall fully reimburse the out-of-network Physician or Provider at the Usual and Customary Charge or at an agreed upon rate. HEALTH PLAN further must provide for a review by a specialist of the same or similar specialty as the type of Physician or Provider to whom a referral is requested before HEALTH PLAN may deny a referral.

### **E. Continuity of Treatment**

The contract between HEALTH PLAN and a Physician or Provider must provide that reasonable advance notice be given to YOU of the impending termination from the Plan of a Physician or Provider who is currently treating



YOUR UNBORN CHILD. The contract must also provide that the termination of the Physician or Provider contract, except for reasons of medical competence or professional behavior, does not release HEALTH PLAN from its obligation to reimburse the Physician or Provider who is treating YOUR UNBORN CHILD of special circumstance, such as an UNBORN CHILD who has a Disability, an acute condition or a life-threatening illness, or is past the twenty-fourth week of gestation, for YOUR UNBORN CHILD'S care in exchange for continuity of ongoing treatment for YOUR UNBORN CHILD then receiving medically necessary treatment in accordance with the dictates of medical prudence.

Special circumstance means a condition such that the treating Physician or Provider reasonably believes that discontinuing care by the treating Physician or Provider could cause harm to YOUR UNBORN CHILD. Special circumstance shall be identified by the treating Physician or Provider who must request that YOUR UNBORN CHILD be permitted to continue treatment under the Physician's or Provider's care and agree not to seek payment from YOU for any amount for which YOU would not be responsible if the Physician or Provider were still on HEALTH PLAN'S network. HEALTH PLAN shall reimburse the terminated Physician or Provider for YOUR UNBORN CHILD'S ongoing treatment. For an UNBORN CHILD who at the time of termination is past the twenty-fourth week of gestation, HEALTH PLAN shall reimburse the terminated Physician or Provider for treatment extending through delivery, immediate postpartum care, and follow-up checkups within sixty days of delivery.

#### **F. Notice Of Claims**

YOU should not have to pay any amount for Covered Health Services. If YOU receive a bill from a physician or provider, contact HEALTH PLAN.

#### **G. Coordination of Benefits**

Your UNBORN CHILD'S coverage under the CHIP Perinatal Program is secondary when coordinating benefits with any other insurance coverage. This means that the coverage provided under the CHIP Perinatal Program will pay benefits for covered services that remain unpaid after any other insurance coverage has paid.

#### **H. Subrogation**

HEALTH PLAN receives all rights of recovery acquired by YOU or YOUR UNBORN CHILD against any person or organization for negligence or any willful act resulting in illness or injury covered by HEALTH PLAN, but only to the extent of such benefits. Upon receiving such benefits from the HEALTH PLAN, YOU and YOUR UNBORN CHILD are considered to have assigned such rights of recovery to HEALTH PLAN and YOU agree to give HEALTH PLAN any reasonable help required to secure the recovery.

### **VII. HOW DO I MAKE A COMPLAINT?**

#### **A. Complaint Process**

"Complaint" means any dissatisfaction expressed by YOU orally or in writing to US with any aspect of OUR operation, including but not limited to, dissatisfaction with plan administration, procedures related to review or appeal of an Adverse Determination, the denial, reduction, or termination of a service for reasons not related to medical necessity; the way a service is provided; or disenrollment decisions.

If YOU notify US orally or in writing of a Complaint, WE will, not later than the fifth business day after the date of the receipt of the Complaint, send to YOU a letter acknowledging the date WE received YOUR Complaint. If the Complaint was received orally, WE will enclose a one-page Complaint form clearly stating that the Complaint form must be returned to US for prompt resolution.

After receipt of the written Complaint or one-page Complaint form from YOU, WE will investigate and send YOU a letter with OUR resolution. The total time for acknowledging, investigating and resolving your Complaint will not exceed thirty (30) calendar days after the date WE receive YOUR Complaint.

YOUR Complaint concerning an Emergency or denial of continued stay for hospitalization will be resolved in one business day of receipt of YOUR Complaint. The investigation and resolution shall be concluded in accordance with the medical immediacy of the case.

YOU may use the appeals process to resolve a dispute regarding the resolution of YOUR Complaint.

## **B. Appeals to the HEALTH PLAN**

1. If the Complaint is not resolved to YOUR satisfaction, YOU have the right either to appear in person before a Complaint appeal panel where YOU normally receive health care services, unless another site is agreed to by YOU, or to address a written appeal to the Complaint appeal panel. WE shall complete the appeals process not later than the thirtieth (30<sup>th</sup>) calendar day after the date of the receipt of the request for appeal.
2. WE shall send an acknowledgment letter to YOU not later the fifth day after the date of receipt of the request of the appeal.
3. WE shall appoint members to the Complaint appeal panel, which shall advise US on the resolution of the dispute. The Complaint appeal panel shall be composed of an equal number of OUR staff, Physicians or other Providers, and enrollees. A member of the appeal panel may not have been previously involved in the disputed decision.
4. Not later than the fifth business day before the scheduled meeting of the panel, unless YOU agree otherwise, WE shall provide to YOU or YOUR designated representative:
  - a. Any documentation to be presented to the panel by OUR staff;
  - b. The specialization of any Physicians or Providers consulted during the investigation; and
  - c. The name and affiliation of each of OUR representatives on the panel.
5. YOU, or YOUR designated representative if YOU are a minor or disabled, are entitled to:
  - a. Appear in person before the Complaint appeal panel;
  - b. Present alternative expert testimony; and
  - c. Request the presence of and question any person responsible for making the prior determination that resulted in the appeal.
6. Investigation and resolution of appeals relating to ongoing emergencies or denial of continued stays for hospitalization shall be concluded in accordance with the medical immediacy of the case but in no event to exceed one business day after YOUR request for appeal.

Due to the ongoing Emergency or continued Hospital stay, and at YOUR request, WE shall provide, in lieu of a Complaint appeal panel, a review by a Physician or Provider who has not previously reviewed the case and is of the same or similar specialty as typically manages the medical condition, procedure, or treatment under discussion for review of the appeal.
7. Notice of OUR final decision on the appeal must include a statement of the specific medical determination, clinical basis, and contractual criteria used to reach the final decision.

## **C. Internal Appeal of Adverse Determination**

An "Adverse Determination" is a decision that is made by US or OUR Utilization Review Agent that the health care services furnished or proposed to be furnished to your UNBORN CHILD are not medically necessary or appropriate.

If YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider of record disagree with the Adverse Determination, YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider may appeal the Adverse Determination orally or in writing.

Within 5 business days after receiving a written appeal of the Adverse Determination, WE or OUR Utilization Review Agent will send YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider, a letter acknowledging the date of receipt of the appeal. The letter will also include a list of documents that YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Prenatal Care Provider should send to US or to OUR Utilization Review Agent for the appeal.

If YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider orally appeal the Adverse Determination, WE or OUR Utilization Review Agent will send YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider a one-page appeal form . YOU are not required to return the completed form, but WE encourage YOU to because it will help US resolve YOUR appeal.

Appeals of Adverse Determinations involving ongoing emergencies or denials of continued stays in a Hospital will be resolved no later than 1 business day from the date all information necessary to complete the appeal is received. All other appeals will be resolved no later than 30 calendar days after the date WE or OUR Utilization Review Agent receives the appeal.

#### **D. External Review by Independent Review Organization**

If the appeal of the Adverse Determination is denied, YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider of record have the right to request a review of that decision by an Independent Review Organization (IRO). When WE or OUR Utilization Review Agent deny the appeal, YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider will receive information on how to request an IRO review of the denial and the forms that must be completed and returned to begin the independent review process.

In circumstances involving a Life-threatening condition, YOU are entitled to an immediate review by an IRO without having to comply with the procedures for internal appeals of Adverse Determinations. In Life-threatening situations, YOU, YOUR designated representative or YOUR UNBORN CHILD'S Physician or Perinatal Program Provider of record may contact US or OUR Utilization Review Agent by telephone to request the review by the IRO and WE or OUR utilization review agent will provide the required information.

When the IRO completes its review and issues its decision, WE will abide by the IRO's decision. WE will pay for the IRO review.

The appeal procedures described above do not prohibit YOU, YOUR designated representative, or your UNBORN CHILD'S Perinatal Program Provider from pursuing other appropriate remedies, including injunctive relief, declaratory judgment, or other relief available under law, if YOU believe that the requirement of completing the appeal and review process places YOUR UNBORN CHILD'S health in serious jeopardy.

#### **E. Filing Complaints with the Texas Department of Insurance**

Any person, including persons who have attempted to resolve complaints through OUR complaint system process and who are dissatisfied with the resolution, may report an alleged violation to the Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. Complaints to the Texas Department of Insurance may also be filed electronically at [www.tdi.texas.gov](http://www.tdi.texas.gov).

The Commissioner of Insurance shall investigate a complaint against US to determine compliance within sixty (60) days after the Texas Department of Insurance's receipt of the Complaint and all information necessary for the Department to determine compliance. The Commissioner may extend the time necessary to complete an investigation in the event any of the following circumstances occur:

1. Additional information is needed;
2. An on-site review is necessary;
3. WE, the Physician or Provider, or YOU do not provide all documentation necessary to complete the investigation; or
4. Other circumstances beyond the control of the Department occur.

## **F. Retaliation Prohibited**

1. WE will not take any retaliatory action, including refusal to renew coverage, against an UNBORN CHILD because the UNBORN CHILD or person acting on behalf of the UNBORN CHILD has filed a Complaint against US or appealed a decision made by US.
2. WE shall not engage in any retaliatory action, including terminating or refusal to renew a contract, against a Physician or Perinatal Program Provider, because the Physician or Perinatal Program Provider has, on behalf of an UNBORN CHILD, reasonably filed a Complaint against US or has appealed a decision made by US.

## **VIII. GENERAL PROVISIONS**

### **A. Entire Agreement, Amendment**

This Contract, and any attachments or amendments are the Entire Agreement between YOU and HEALTH PLAN. To be valid, any changes to this Contract must be approved by an officer of HEALTH PLAN and attached to this Contract.

### **B. Release and Confidentiality of Medical Records**

HEALTH PLAN agrees to maintain and preserve the confidentiality of any and all your medical records. However, by enrolling in HEALTH PLAN, YOU authorize the release of information, as permitted by law, and access to any and all of your medical records for purposes reasonably related to the provision of services under this Contract, to HEALTH PLAN, its agents and employees, YOUR UNBORN CHILD'S Perinatal Program Provider, participating Providers, outside Providers of Utilization Review Committee, CHIP Perinatal Program and appropriate governmental agencies. HEALTH PLAN's privacy protections are described in more detail in its Notice of Privacy Practices. The Notice of Privacy Practices is available at [www.TexasChildrensHealthPlan.org](http://www.TexasChildrensHealthPlan.org) or you may request a copy by calling 1-866-959-6555.

### **C. Clerical Error**

Clerical error or delays in keeping your records for YOUR and YOUR UNBORN\_CHILD'S Evidence of Coverage with CHIP Perinatal Program:

1. Will not deny Coverage that otherwise would have been granted; and
2. Will not continue Coverage that otherwise would have terminated.

If any important facts given to the CHIP Perinatal Program about YOU or your UNBORN CHILD are not accurate and they affect Coverage:

1. The true facts will be used by CHIP Perinatal Program to decide whether Coverage is in force; and
2. Any necessary adjustments and/or recoupments will be made.

### **D. Notice**

Benefits under Workers' Compensation are not affected.

### **E. Validity**

The unenforceability or invalidity of any provision of this Evidence of Coverage shall not affect the enforceability or validity of the rest of this Contract.

### **F. Conformity with State Law**

Any provision of this Contract that is not in conformity with the Texas HMO Act, and State or federal laws or regulations governing CHIP, or other applicable laws or regulations shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the Texas HMO Act, and State or federal laws or regulations governing CHIP, and other applicable laws or regulations.

#### **IV. SCHEDULE OF BENEFITS, EXCLUDED SERVICES AND COVERED HEALTH SERVICES**

These health services when medically necessary must be furnished in the most appropriate and least restrictive setting in which services can be safely provided; must be provided at the most appropriate level or supply of service that can safely be provided and that could not be omitted without adversely affecting the Member's physical health or the quality of life.

Emergency Care is a covered CHIP Perinatal Program service limited to those emergency services that directly relate to the delivery of the covered UNBORN CHILD until birth and must be provided in accordance with **Section**

**VI. C. Emergency Services.** Please refer to **Section II Definitions**, for the definition of "Emergency and Emergency Condition" and the definition of "Emergency Services and Emergency Care" to determine if an Emergency Condition exists.