

DOCUMENT: SAMPLE DEMAND LETTER (see important note below)

TITLE: ERISA Health Benefit Plan Requests a Refund, Claiming That Your Care Was Not Medically Necessary

LAW: Federal

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[Date]

By Fax and Certified Mail, Article # \_\_\_\_\_

## SAMPLE DEMAND LETTER

[Name and Address of Plan Fiduciary]

RE:

Your Request for a Refund Dated: \_\_\_/\_\_\_/\_\_\_  
Name of the Insured:  
Name of Our Patient:  
Policy Number:  
Group Number:

To Whom It May Concern:

Our office is in receipt of a refund request from your company ("you") dated \_\_\_/\_\_\_/\_\_\_ . Based on your request, it is our understanding that you not only are disputing the medical necessity of our care, but also are intending to "recoup" the refund amount out of other patient accounts if we do not send the money to you within a given period of time.

Based on various federal ERISA laws, including the law of fiduciary duty, we hereby (1) request that you not attempt to recoup any proceeds out of other patient accounts, (2) request that you desist from sending us any further notices requesting a refund, and (3) appeal your determination in the alternative by requesting all "relevant documents" related to your determination.

Each of our requests is discussed below. If you have any questions, please do not hesitate to contact our office.

**POINT #1 – ERISA LAW REQUIRES THAT YOU RENDER YOUR MEDICAL NECESSITY DETERMINATION WITHIN 15 DAYS OF HAVING RECEIVED MEDICAL DOCUMENTATION FROM OUR OFFICE. IF YOU WISH TO PAY THE CLAIMS WITHIN THAT 15-DAY PERIOD AND THEN WISH TO PERFORM AN AUDIT AT A LATER DATE, AT A MINIMUM YOU SHOULD HAVE NOTIFIED OUR PRACTICE AT THE TIME OF PAYMENT THAT THE PAYMENT WAS CONDITIONAL AND THE DATE BY WHICH YOU EXPECTED TO COMPLETE THE AUDIT, NEITHER OF WHICH OCCURRED IN THIS CASE.**

[Text omitted. For the full text of this letter, login to the ProviderLAW website. Visit [www.providerlaw.com](http://www.providerlaw.com) for more info.]

**POINT #2 – FEDERAL COURTS HAVE SEVERELY RESTRICTED ANY RIGHT OF ERISA HEALTH BENEFIT PLANS TO REQUEST REFUNDS FROM HEALTH CARE PROVIDERS AFTER MAKING PAYMENT TO THE PROVIDERS.**

[Text omitted. For the full text of this letter, login to the ProviderLAW website. Visit [www.providerlaw.com](http://www.providerlaw.com) for more info.]

**POINT #3 – UNDER THE LAW OF “FIDUCIARY DUTY,” YOU HAVE NO RIGHT TO RECOUP MONEY OUT OF OTHER PATIENT ACCOUNTS.**

[Text omitted. For the full text of this letter, login to the ProviderLAW website. Visit [www.providerlaw.com](http://www.providerlaw.com) for more info.]

**POINT #4 – IN ORDER THAT WE MIGHT HAVE A “FULL AND FAIR REVIEW,” WE ALTERNATIVELY REQUEST COPIES OF ALL “RELEVANT DOCUMENTS” RELATED TO YOUR DETERMINATION. UNTIL YOU PROVIDE SUCH DOCUMENTATION, AND ALLOW US THE RIGHT TO A FULL AND FAIR REVIEW, WE RESPECTFULLY REQUEST THAT YOU DESIST FROM SENDING ANY FURTHER REFUND REQUESTS.**

[Text omitted. For the full text of this letter, login to the ProviderLAW website. Visit [www.providerlaw.com](http://www.providerlaw.com) for more info.]

Thank you for your attention to this matter. In you have any questions, please do not hesitate to contact our office.

Sincerely,

[Provider's Name – typed]

[NAME OF YOUR FACILITY]

[Provider's Initials/Transcriptionist's initials]