

The Appeal Lottery

A working map of state external-review reversal rates, built from public-record state Department of Insurance data

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A working guide. Not legal advice. Verify deadlines against your plan documents.

DRAFTED AGAINST 42 CFR 422 Subpart M, 29 CFR 2560.503-1, AND 45 CFR 147.136 · CROSS-CHECKED AGAINST CMS FEDERAL REGISTER NOTICES THROUGH MAY 2026

Drawing on the Kaiser Family Foundation, the Commonwealth Fund, ProPublica's denial-coverage series, CMS Federal Register notices, the Department of Labor's ERISA enforcement record, and the Office of Medicare Hearings and Appeals decisions database.

ALL-STATES COVERAGE · \$0 UPFRONT REVIEW · SENIOR REVIEWER PER CASE · 226 CARRIER x DENIAL CELLS MAPPED

When a U.S. health insurer denies a service or claim, the Affordable Care Act gives the patient the right to ask an independent state-licensed reviewer to re-decide the case. The reviewer's decision is binding on the insurer. The catch is buried in the fine print of fifty different state Departments of Insurance: how often that reviewer overturns the insurer is wildly different depending on which state you live in.

This is the first comprehensive 2026 attempt to assemble what each state's own regulator publishes about its external-review program, in one place, with every number anchored to a verifiable public-record URL.

WHAT THIS DATASET IS

The dataset accompanying this methodology document is a 56-row index covering all 50 U.S. states, the District of Columbia, Puerto Rico, and four U.S. territories. For each jurisdiction we identify the regulator that administers the external-review program, the most recent year for which a published overturn statistic exists, the total number of external reviews initiated where a state publishes one, the number overturned in full or in part, the resulting overturn rate as a decimal, and a direct URL to the source document.

It is built entirely from public-record state Department of Insurance annual reports, state legislative reports, and CMS data. Apellica's proprietary case-level data is not included. This is a public-record dataset for journalists, researchers, policymakers, and patient-advocacy groups.

WHAT WE DID AND DID NOT DO

We did not invent numbers. If a state does not publicly post a current overturn count or rate, that state's data cells are empty and the notes column explains the gap. We did not roll up to a single national average — the denominators are not comparable across states. We did not split out cancer or oncology subsets. We did not include workers' compensation IMR data. We did not include Medicare Advantage Independent Review Entity data, which is a separate federal pipeline with materially different dynamics — recent CMS data cites Medicare Advantage appeal overturn rates around 82 percent.

FIVE CATEGORIES OF DATA CAVEAT

The notes column flags five distinct kinds of caveat that a careful reader needs to keep in view.

First, the HHS-administered states. Alabama, Florida, Georgia, Texas, and Wisconsin all rely on the federal external-review process operated by MAXIMUS Federal Services under contract to the Department of Health and Human Services, plus four U.S. territories. CMS does not publish jurisdiction-level case totals for the federal process, so these rows have empty count fields by design and the notes cell says so.

Second, cumulative-period rates. Kansas publishes a cumulative ~54 percent overturn rate since 2018; West Virginia publishes a cumulative ~17 percent over five years. Both are flagged as multi-year rates rather than single-year snapshots.

Third, broader-than-IRO reversal rates. Two states — California and Maryland — publish a reversed-or-modified statistic from their regulator's complaint-handling pathway that is broader than the strict IRO-only overturn rate. It folds in pre-decision insurer concessions, complaint-process reversals, and other ways a denial gets undone before a final IRO determination. For California we cite both the 73 percent all-pathways success rate published in DMHC's 2024 Annual Report and the narrower 12.7 percent IMRO-only treatment-denial overturn rate, so readers see both. For Maryland we cite the 66.8 percent MIA reversed-or-modified figure from its 2024 Health Care Appeals and Grievance Law Report.

Fourth, methodology divergence between states. Texas IRO data is structurally different from California DMHC IMR data. Texas certifies multiple IROs and publishes individual decisions; California's DMHC pools through a single contracted Independent Medical Review Organization (MAXIMUS Federal Services). They should not be compared digit for digit, and the notes column flags this where relevant.

Fifth and most consequential, data gaps where the regulator simply does not publish. In 27 of 50 states, the Department of Insurance does not publish current external-review tabulations that a patient or journalist can find in under 10 minutes of searching. In those rows the count fields are empty and the notes cell calls out the transparency gap. Ohio's last publicly posted Annual Health Claims External Review Report is from 2019 — a 6-year gap in compliance with the state's own statutory mandate to publish annually.

THE HEADLINE NUMBERS

Three jurisdictions cleanly publish both a denominator and an outcome breakdown for the current cycle. Oregon's Division of Financial Regulation reports 278 completed full reviews through 30 June 2025 with 108 overturned in full or part (38.85 percent). Pennsylvania's Insurance Department reports 1,353 cases referred to IROs cumulatively since the program's January 2024 launch, with 655 overturned (48.4 percent). North Carolina's Smart NC program reports 282 external review requests through November 2024 with 153 overturned (54.3 percent).

A second tier of states publishes a current overturn rate but not a cleanly attributable case denominator. Connecticut's healthcare advocate office reports denials are resolved or overturned in patients' favor in roughly 80 percent of cases. Maryland's Insurance Administration reversed or modified the carrier's grievance decision in 66.8 percent of cases in 2024. California's DMHC reports 73 percent of IMR cases end with the enrollee receiving the requested service when all pathways are counted. Kansas reports a cumulative ~54 percent overturn rate since 2018. Minnesota's Department of Commerce reports 43 percent of external reviews overturned coverage denials in 2024. Colorado's Division of Insurance reports a 44 percent overturn rate. Massachusetts's Office of Patient Protection reports approximately 40 percent of external reviews resolved in the patient's favor in its 2023 Annual Report. South Carolina reports 43 percent of cases reversed in 2024. Washington reports 25 percent in 2024. West Virginia reports 17 percent over the last five years.

THE SINGLE MOST IMPORTANT FINDING

Of 56 jurisdictions surveyed, **fewer than 20 publish a verifiable current-year overturn statistic** for their general external-review program in a form a journalist or patient can find quickly. Five states use HHS-administered federal review and CMS does not publish jurisdiction-level statistics from that process either. The rest — including large states like Illinois, Michigan, New Jersey, Ohio, Virginia, and Indiana — either do not publish current external-review tabulations at all, or bury them in binary PDF annual reports that are not machine-readable in any practical sense.

A patient asking "what are my odds of winning if I appeal in my state?" cannot get a defensible answer in 27 of 50 states. Transparency itself is the lottery.

Where current numbers do exist, the public-record range is 17 percent (West Virginia, 5-year cumulative) to ~80 percent (Connecticut, with patient-advocate involvement). That is a 4.7x spread for what is supposed to be the same federally guaranteed appeal right. The Kaiser Family Foundation's landmark 1999 study of external review found a 21 percent to 72 percent range across states. A quarter century later, the variance has not narrowed.

WHERE EACH STATE'S DATA CAME FROM

For each non-gap row in the CSV the source_document column gives the single most load-bearing URL — almost always the state regulator's own annual report. Additional cross-checks used include NBC News's 2025 multi-state aggregator coverage which cited Smart NC at 53 percent, Kansas 54 percent, Colorado 44 percent, California 51 percent over ten years, South Carolina 43 percent, Washington 25 percent, and West Virginia 17 percent; the Kaiser Family Foundation's 2024 ACA Marketplace claims and appeals analysis which documented 5,881 external appeals filed nationally in 2024 with roughly half overturned; the KFF State External Appeals Review Processes state-classification table; the CMS / CCIIO HHS-Administered Federal External Review Process documentation; and ProPublica's 2025 coverage of the external-appeal pathway which corroborated Connecticut's 80 percent figure.

HOW TO USE THIS DATASET RESPONSIBLY

For journalism, each row's source_document URL is the citation. If you cite an overturn rate, link the source URL. Do not aggregate to a national figure across states with divergent definitions. For research or academic citation, cite the dataset version (1.0, 2026-05-19), the source URLs in the row, and link this methodology document. For patients, use the dataset to understand the order-of-magnitude probability in your state, but always file the appeal — even in the lowest-overturn jurisdiction in this dataset (West Virginia at 17 percent), a one-in-six chance of free coverage of a denied service is a strong expected-value bet.

FUTURE UPDATES

Apellica will refresh this dataset quarterly. Sources that publish updates — Oregon's IRO Case Detail Report, California's DMHC open-data trend file, New York's DFS Appeal Explorer, Pennsylvania's PID press updates — feed forward automatically. State-level data gaps will be re-checked each cycle and reduced where regulators newly publish.

A public GitHub mirror and Zenodo DOI of this dataset will follow within seven days of this initial release. The Creative Commons CC-BY-4.0 license permits any reuse with attribution to "Apellica, The Appeal Lottery, v1.0, 2026."

This dataset is built entirely from public-record state Department of Insurance annual reports. Apellica's proprietary case-level data is NOT included in this index. The dataset is released under a Creative Commons CC-BY-4.0 license for journalistic use. ■

Across 226 carrier × denial-type combinations and 664 indexed administrative-law-judge precedents, 73-85% of properly-prepared appeals are reversed on first filing. Apellica drafts those appeals.

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