

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUL 26 2 29 PM '96

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Insurance Commissioner's Office TITLE NUMBER: 114

RULE TYPE: Legislative; CITE AUTHORITY W.Va. Code §§ 33-2-10, 33-25A-7a, 33-25A-7a, 33-25A-8, 33-25A-8d, 33-25A-34.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 50

TITLE OF RULE BEING PROPOSED: Emergency Medical Services

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 26, 1996 AT 12:00 noon. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Ellen R. Archibald, Associate Counsel

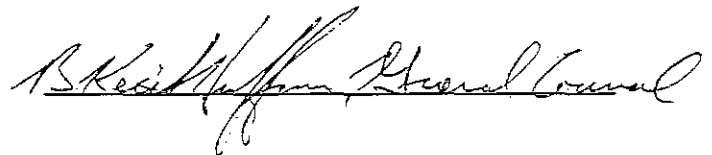
West Virginia Insurance Commissioner

P.O. Box 50540

Charleston, WV 25305-0540

(304) 558-0401

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4.80



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

July 26, 1996

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, WV 25305

Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- (1) Notice of a Comment Period on a Proposed Rule;
- (2) Consent of Tax and Revenue Cabinet Secretary to Proposed Rule;
- (3) Brief Summary of the Rule;
- (4) Statement of Circumstances
- (5) Fiscal Note;
- (6) Proposed Rule entitled "Emergency Medical Services" (Series 50).

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script that reads "B. Keith Huffman".

B. Keith Huffman
General Counsel

BKH/cjs
Enclosures



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

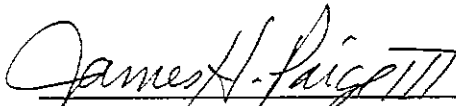

HANLEY C. CLARK
Insurance Commissioner

CONSENT TO FILING OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the filing of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 50, relating to "Emergency Medical Services."

Signed this 26th day of July, 1996.


James H. Paige, III
Secretary of Tax and Revenue 

Insurance Commissioner
Legislative Rule
Title 114, Series 50

Emergency Medical Services

Title 114, Series 50

BRIEF SUMMARY OF RULE

This proposed rule implements W. Va. Code § 33-25A-34, a new provision of the Health Maintenance Organization Act, W.Va. Code §§ 33-25A-1 et. seq., which was amended during the 1996 legislative session by House Bill 4511. The rule sets forth the standards for provider contracts between a health maintenance organization and a provider of emergency medical services. The rule also requires each health maintenance organization to explain to its members the procedures to be followed in a medical emergency and the circumstances under which non-emergency transportation will be covered under the health maintenance organization's contract with its members.

Insurance Commissioner
Legislative Rule
Title 114, Series 50

Emergency Medical Services

Title 114, Series 50

STATEMENT OF CIRCUMSTANCES

During the 1996 legislative session, the West Virginia Legislature passed House Bill 4511, which amended the Health Maintenance Organization Act and mandated that the Insurance Commissioner promulgate this rule. The rule sets forth the required standards for provider contracts between a health maintenance organization and a provider of emergency medical services, taking into consideration reimbursement for non-emergency transportation, appropriate use of 911 or community dispatching and members' understanding of emergency procedures.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Emergency Medical Services

Type of Rule: Legislative Interpretive Procedural

Agency: Insurance Commissioner

Address: Post Office Box 50540
 2019 Washington Street, East
 Charleston, West Virginia 25305-0540

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1. Effect of Proposed Rule

| | ANNUAL FISCAL YEAR | | | | |
|--------------------------|--------------------|----------|---------|------|------------|
| | Increase | Decrease | Current | Next | Thereafter |
| ESTIMATED TOTAL COST | none | | | | |
| PERSONAL SERVICES | none | | | | |
| CURRENT EXPENSE | none | | | | |
| REPAIRS AND ALTERNATIONS | none | | | | |
| EQUIPMENT | none | | | | |
| OTHER | none | | | | |

2. Explanation of above estimates:

This rule will have no fiscal impact on state, local or federal government.

3. Objectives of these rules:

This proposed rule implements W. Va. Code § 33-25A-34, a new provision of the Health Maintenance Organization Act, W.Va. Code §§ 33-25A-1 et. seq., which was amended during the 1996 legislative session by House Bill 4511. The rule sets forth the standards for provider contracts between a health maintenance organization and a provider of emergency medical services. The rule also requires each health maintenance organization to explain to its members the procedures to be followed in a medical emergency and the circumstances under which non-emergency transportation will be covered under the health maintenance organization's contract with its members.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

This rule is not expected to have an impact on HMOs because emergency medical services are less than 1% of HMO expenses.

C. Economic Impact on Citizens/Public at Large.

This rule is not expected to have an impact on citizens because it does not change existing standards but merely clarifies them.

Date: 26 July 96

Signature of Agency Head or Authorized Representative

Stanley O. Clark

114CSR50

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 50
EMERGENCY MEDICAL SERVICES

SECTION

- § 114-50-1. General.
- § 114-50-2. Definitions.
- § 114-50-3. Emergency Medical Service Provider Contracts.
- § 114-50-4. Requirements for Emergency Medical Services.
- § 114-50-5. Severability.

114CSR50

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 50
EMERGENCY MEDICAL SERVICES

FILED
JUL 26 2 29 PM '96
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 114-50-1. General.

1.1. Scope. The purpose of this rule is to set forth requirements for a health maintenance organization's provision of emergency medical services to its enrollees.

1.2. Applicability. This rule applies to all health maintenance organizations holding a valid certificate of authority granted by the commissioner. All health maintenance organization provider contracts for emergency medical services to enrollees through a health service intermediary shall be subject to 114CSR43.

1.3. Authority. -- W. Va. Code §§ 33-2-10, 33-25A-7a, 8, 8d, 34.

1.4. Filing Date. --

1.5. Effective Date. ---

§ 114-50-2. Definitions.

Terms not defined in this rule shall have the meanings given in West Virginia Code § 33-25A-1 et seq. As used in this legislative rule:

2.1. "Acute Emergency Medical Service" means emergency medical services rendered in response to a request by an enrollee or a person acting on behalf of an enrollee, through "911," a community dispatcher or otherwise, either with the enrollee's permission or without the enrollee's permission if the enrollee is incapacitated, where:

a. there has been no precertification or preauthorization for the services by the health maintenance organization;

b. the emergency medical services were not scheduled in advance; and

c. the person making the request for emergency medical services does so in response to what the person perceives to be an emergency situation.

2.2. "Commissioner" means the Insurance Commissioner of the State of West Virginia.

2.3. "Covered Acute Emergency Medical Services" means acute emergency medical services for which a health maintenance organization is obligated to pay under the health maintenance organization contract with an enrollee.

2.4. "Covered Non-Acute Emergency Medical Services" means non-acute emergency medical services for which a health maintenance organization is obligated to pay under the health maintenance organization's contract with an enrollee.

2.5. "Emergency Medical Services" means acute emergency medical services and non-acute emergency medical services rendered to an enrollee of a health maintenance organization by an emergency medical service provider within the scope of its operations as an emergency medical service provider.

2.6. "Emergency Medical Service Provider" means an entity legally operating as an "emergency medical service provider" as that term is defined in W.Va. Code § 16-4C-3.

2.7. "Emergency Situation" means a situation where the provision of emergency medical services is necessary to evaluate and or treat a medical condition manifesting itself by the sudden and at the time, unexpected onset of symptoms that require immediate medical attention and for which failure to provide medical attention would result in serious impairment to bodily function or serious dysfunction to any bodily organ or part.

2.8. "Incapacitated" means a person who is unable for medical reasons to request or give consent to or receive emergency medical services.

2.9. "Non-Acute Emergency Medical Services" means emergency medical services other than acute emergency medical services including, but not limited to, scheduled transportation services provided by an emergency medical service provider.

2.10. "Noncovered Acute Emergency Medical Services" means acute emergency medical services for which a health maintenance organization is not obligated to pay under its contract with an enrollee.

2.11. "Nonparticipating Provider" or "Noncontracting Provider" means a provider that has not entered into a contract with a health maintenance organization to provide health care services to enrollees of the health maintenance organization.

2.12. "Participating Provider" means a provider that has entered into a contract with a health maintenance organization to provide health care services to enrollees of the health maintenance organization.

§ 114-50-3. Emergency Medical Service Provider Contracts.

3.1. A contract between a health maintenance organization and an emergency medical service provider must;

a. List and define duties to be assumed by the health maintenance organization and the participating provider, respectively;

b. Specify how the health maintenance organization will determine whether emergency medical services rendered by the participating provider qualify as covered emergency medical services;

Insurance Commissioner
Legislative Rule
Title 114, Series 50

c. Require the health maintenance organization to pay the participating provider in full under terms of contract for any valid claim for the covered emergency medical services rendered by the participating provider to an enrollee of the health maintenance organization, but a valid claim shall not include the amount of any deductible or copayment payable by the enrollee;

d. Require the participating provider to meet all applicable standards to which the health maintenance organization is subject;

e. Specify the service area in which the participating provider will provide emergency medical services;

f. Require the participating provider to maintain records of emergency medical services provided to an enrollee of the health maintenance organization;

g. Specify that the health maintenance organization, not its enrollee, is liable for covered emergency medical services provided to the enrollee and that the participating provider may not collect or attempt to collect from an enrollee, by action at law or otherwise, any money for covered emergency medical services rendered to the enrollee, other than a deductible or copayment payable by the enrollee;

h. Require the participating provider to give sixty (60) days advance written notice to the health maintenance organization and the commissioner before canceling the contract for any reason and specify that the health maintenance organization's nonpayment of one or more valid claims is not a valid reason for avoiding the sixty (60) day advance notice of cancellation; and

i. Specify that upon the health maintenance organization's receipt of a participating provider's sixty (60) day cancellation notice, the health maintenance organization may, in its discretion, if requested by the participating provider,

terminate the contract in less than sixty (60) days if the health maintenance organization is not financially impaired or insolvent.

§ 114-50-4. Requirements for Emergency Medical Services.

4.1. If a health maintenance organization enters into a contract with an emergency medical service provider:

a. Within thirty (30) days after execution of an emergency medical service provider contract, the health maintenance organization shall file with the commissioner a copy of the executed contract and all exhibits, attachments, addenda, schedules or other documents relevant to the contract;

b. The health maintenance organization shall report any new or deleted emergency medical service providers on the provider list submitted to the commissioner with its quarterly financial statement; and

c. A health maintenance organization is responsible for compliance by the participating provider with all applicable standards required by West Virginia Code § 33-25A-1 et seq. as to any services performed on behalf of the health maintenance organization.

4.2. A health maintenance organization may not prohibit enrollees' use of "911" or another method of contacting an emergency medical service provider in an emergency situation.

4.3. A health maintenance organization must explain clearly and concisely in its evidence of coverage:

a. That neither an enrollee nor a provider is required to obtain preauthorization or precertification for acute emergency medical services;

b. That the health maintenance organization may apply to covered emergency medical services the same deductibles,

coinsurance and other limitations that apply to other covered health care services;

c. What is an emergency situation and how the health maintenance organization will determine whether health care services qualify as covered emergency medical services, giving specific examples of situations in which an enrollee should seek emergency medical services by calling the health maintenance organization, "911" or a comparable community dispatcher;

d. That the enrollee will be liable for provider charges for noncovered emergency medical services;

e. Under what conditions non-acute emergency medical services, by an emergency medical service provider or otherwise, will be a covered health care service; and

f. That, if an enrollee receives covered acute or covered non-acute emergency medical services from a nonparticipating provider, the health maintenance organization will pay the provider's normal charges for the covered emergency medical services rendered, exclusive of any applicable deductibles or copayments to be paid by the enrollee.

§114-50-5. Severability.

5.1. If any provision of this rule or the application of this rule to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provisions to other persons or circumstances shall not be affected by the holding.