

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Do Not Mark In this Box

FILED

FEB 18 3 22 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

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

AMENDMENT TO AN EXISTING RULE: YES NO

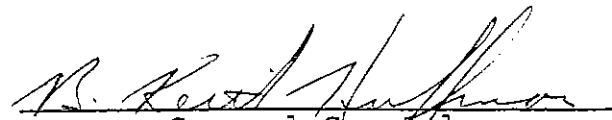
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

TITLE OF RULE BEING PROPOSED: Emergency Medical Services

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


General Counsel

4.00



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

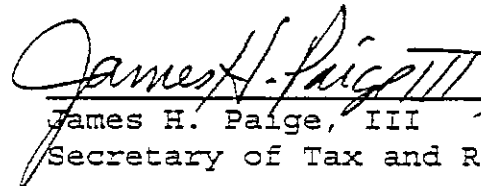
HANLEY C. CLARK
Insurance Commissioner

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

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.

FILED

114CSR50

FEB 18 3 22 PM '97

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 50
EMERGENCY MEDICAL SERVICES

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

2.12. "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.

2.13. "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;

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

Insurance Commissioner
Legislative Rule
Title 114, Series 50

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 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.

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. 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 forty-five (45) days after the calendar quarter end next following the execution date of an emergency medical service provider 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:



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

CECIL UNDERWOOD
Governor

February 18, 1997

HANLEY C. CLARK
Insurance Commissioner

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 Rule Modification of a Proposed Rule;
- (2) Consent of Tax and Revenue Cabinet Secretary to Proposed Rule; and
- (3) The modified 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/ksb

Enclosures

1557

1 Bill-Ins, EMS (By Delegate(s) Douglas, Hunt, Compton,
2 Faircloth, Linch and Riggs)

3
4 [Introduced March 3, 1997; referred to the
5 Committee on Banking and Insurance then the
6 Judiciary.]

7
8
9
10 A BILL to amend and reenact section three, article seven,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the insurance commissioner to
14 promulgate a legislative rule relating to emergency
15 medical services.

16 Be it enacted by the Legislature of West Virginia:

17 That section three, article seven, chapter sixty-four
18 of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE
22 TO PROMULGATE LEGISLATIVE RULES.

23 §64-7-3. Insurance commissioner.

114-50

1 (a) The legislative ~~rules~~ rule filed in the state
2 register on the twenty-seventh day of July, one thousand
3 nine hundred ninety-five, authorized under the authority of
4 section nine, article seven, chapter thirty-three of this
5 code, modified by the insurance commissioner to meet the
6 objections of the legislative rule-making review committee
7 and refiled in the state register on the twenty-seventh
8 day of November, one thousand nine hundred ninety-five,
9 relating to the insurance commissioner (actuarial opinion
10 and memorandum rule, 114 CSR 41), ~~are~~ is authorized.

11 (b) The legislative ~~rules~~ rule filed in the state
12 register on the twenty-seventh day of July, one thousand
13 nine hundred ninety-five, authorized under the authority of
14 section ten, article two, chapter thirty-three of this
15 code, modified by the insurance commissioner to meet the
16 objections of the legislative rule-making review committee
17 and refiled in the state register on the twenty-seventh day
18 of November, one thousand nine hundred ninety-five,
19 relating to the insurance commissioner (examiners'
20 compensation, qualifications and classification, 114 CSR
21 15), ~~are~~ is authorized.

22 (c) The legislative ~~rules~~ rule filed in the state
23 register on the twenty-eighth day of July, one thousand

1 nine hundred ninety-five, authorized under the authority of
2 section eleven, article twelve, chapter thirty-three of
3 this code, modified by the insurance commissioner to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 twenty-seventh day of November, one thousand nine hundred
7 ninety-five, relating to the insurance commissioner (excess
8 line brokers, 114 CSR 20), ~~are~~ is authorized.

9 (d) The legislative ~~rules~~ rule filed in the state
10 register on the twenty-eighth day of July, one thousand
11 nine hundred ninety-five, authorized under the authority of
12 section ten, article two, chapter thirty-three of this
13 code, modified by the insurance commissioner to meet the
14 objections of the legislative rule-making review committee
15 and refiled in the state register on the twenty-seventh day
16 of November, one thousand nine hundred ninety-five,
17 relating to the insurance commissioner (continuing
18 education for insurance agents, 114 CSR 42), ~~are~~ is
19 authorized.

20 (e) The legislative ~~rules~~ rule filed in the state
21 register on the twenty-eighth day of July, one thousand
22 nine hundred ninety-five, authorized under the authority of
23 section nine, article seven, chapter thirty-three of this

1 code, modified by the insurance commissioner to meet the
2 objections of the legislative rule-making review committee
3 and refiled in the state register on the twenty-seventh
4 day of November, one thousand nine hundred ninety-five,
5 relating to the insurance commissioner (recognizing
6 mortality tables for use in determining reserve liability
7 for annuities, 114 CSR 45), ~~are~~ is authorized.

8 (f) The legislative ~~rules~~ rule filed in the state
9 register on the twenty-eighth day of July, one thousand
10 nine hundred ninety-five, authorized under the authority of
11 section thirty-one-c, article six, chapter thirty-three of
12 this code, modified by the insurance commissioner to meet
13 the objections of the legislative rule-making review
14 committee and refiled in the state register on the
15 twenty-seventh day of November, one thousand nine hundred
16 ninety-five, relating to the insurance commissioner
17 (substandard risk motor vehicle insurance notice
18 requirements, 114 CSR 37), ~~are~~ is authorized.

19 (g) The legislative ~~rules~~ rule filed in the state
20 register on the twenty-eighth day of July, one thousand
21 nine hundred ninety-five, authorized under the authority of
22 section nine, article seven, chapter thirty-three of this
23 code, modified by the insurance commissioner to meet the

1 objections of the legislative rule-making review committee
2 and refiled in the state register on the twenty-seventh
3 day of November, one thousand nine hundred ninety-five,
4 relating to the insurance commissioner (minimum reserve
5 standards for individual and group health insurance
6 contracts, 114 CSR 44), ~~are~~ is authorized.

7 (h) The legislative ~~rules~~ rule filed in the state
8 register on the thirty-first day of July, one thousand nine
9 hundred ninety-five, authorized under the authority of
10 section twenty, article twenty-five-a, chapter thirty-
11 three of this code, modified by the insurance commissioner
12 to meet the objections of the legislative rule-making
13 review committee and refiled in the state register on the
14 twenty-seventh day of November, one thousand nine hundred
15 ninety-five, relating to the insurance commissioner (filing
16 procedures for health maintenance organizations, 114 CSR
17 46), ~~are~~ is authorized.

18 (i) The legislative ~~rules~~ rule filed in the state
19 register on the thirty-first day of July, one thousand nine
20 hundred ninety-five, authorized under the authority of
21 section twenty, article twenty-five-a, chapter thirty-three
22 of this code, modified by the insurance commissioner to
23 meet the objections of the legislative rule-making review

1 committee and refiled in the state register on the twenty-
2 seventh day of November, one thousand nine hundred
3 ninety-five, relating to the insurance commissioner (health
4 maintenance organizations, 114 CSR 43), ~~are~~ is authorized.

5 (j) The legislative rule filed in the state register
6 on the twenty-ninth day of August, one thousand nine
7 hundred ninety-six, authorized under the authority of
8 section twenty-three, article four-c, chapter sixteen, of
9 this code, modified by the insurance commissioner to meet
10 the objections of the legislative rule-making review
11 committee and refiled in the state register on the
12 eighteenth day of February, one thousand nine hundred
13 ninety-seven, relating to the insurance commissioner
14 (emergency medical services, 114 CSR 50), is authorized.

15

16 NOTE: The purpose of this bill is to authorize the
17 Insurance Commissioner to promulgate a legislative rule
18 relating to Emergency Medical Services.

19

20 Strike-throughs indicate language that would be
21 stricken from the present law, and underscoring indicates
22 new language that would be added.

Senate Bill No. 184

1 (By Senator(s) Ross, Anderson, Macnaughtan,
2 Boley and Buckalew)

3 [Introduced March 3, 1997; referred to the
4 Committee on Banking and Insurance; and then to
5 the Committee on the Judiciary.]
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