

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark In this Box

FILED

MAY 16 4 11 PM '97

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Insurance Commissioner TITLE NUMBER: 114

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

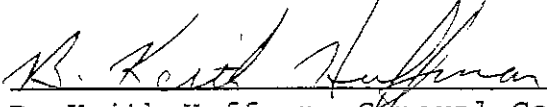
THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 157

SECTION 64-7-3(f), PASSED ON April 20, 1997

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: May 16, 1997

  
B. Keith Huffman, General Counsel

4120

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.

114CSR50

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 50  
EMERGENCY MEDICAL SERVICES

FILED

MAY 16 4 11 PM '97

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. -- May 16, 1997.

1.5. Effective Date. -- May 16, 1997.

§ 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

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:

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.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

CECIL UNDERWOOD  
Governor

HANLEY C. CLARK  
Insurance Commissioner

May 16, 1997

HAND DELIVERED

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

Dear Ms. Cooper:

Attached for filing with your office is the "final filing" form for the rule Series 50 titled "Emergency Medical Services." This rule was authorized in Senate Bill 157 and passed by the Legislature on April 20, 1997.

We are also providing your office with a computer disc containing the aforementioned rule and a hard copy of the promulgation history of that rule. The filing date and effective date have already been inserted onto the computer disc.

If you have any questions about the enclosed forms or the computer disc, please do not hesitate to call me.

Sincerely,

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

B. Keith Huffman  
General Counsel

BKH/cjs  
Attachment

## PROMULGATION HISTORY

### West Virginia Insurance Commission TITLE 114, SERIES 50 EMERGENCY MEDICAL SERVICES

<u>DATE</u>	<u>ACTION TAKEN</u>
07-26-96	Notice of a Comment Period on a Proposed Rule Filed
08-26-96	Last Date Comments were Received
08-29-96	Notice of Agency Approval of a Proposed Rule Filed
02-14-97	Notice of Action Taken by Legislative Rule-Making Review Committee
02-20-97	Notice of Rule Modification of a Proposed Rule Filed
05-16-97	Notice of Final Filing of Proposed Rule Filed
05-16-97	Effective Date

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

JAN CASTO  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900



WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

STATE OF WEST VIRGINIA  
SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

(Plus all the volunteer  
help we can get)

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUL 30 9 35 AM '97

FILED

TO: ELLEN R ARCHIBALD

AGENCY: INSURANCE COMMISSIONER

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 12, 1997

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 50 TITLE: 114 INSURANCE COMMISSIONER

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT..

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: Associate Counsel

DATE: July 25, 1997

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.