

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #2

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JUL 26 2 30 PM '96  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114  
RULE TYPE: Legislative; CITE AUTHORITY W.Va. Code §§ 33-2-10  
AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X §§ 33-25A-4 (1) (6)  
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_ §§ 33-25A-17a  
TITLE OF RULE BEING AMENDED: \_\_\_\_\_  
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 51  
TITLE OF RULE BEING PROPOSED: Utilization Management

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.

Donna S. Quesenberry, Associate Council  
West Virginia Insurance Commission  
1124 Smith Street  
P.O. Box 50540  
Charleston, West Virginia 25305-0540

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

*Donna S. Quesenberry, Associate Council*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

5.20



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

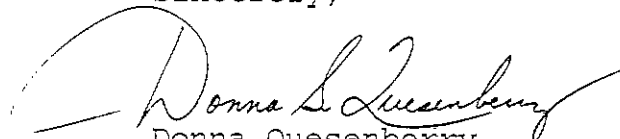
Dear Ms. Cooper:

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 "Utilization Management" (Series 51).

Please contact me if further information is required.

Sincerely,

  
Donna Quesenberry  
Associate Counsel

DQ/cjs  
Enclosures



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

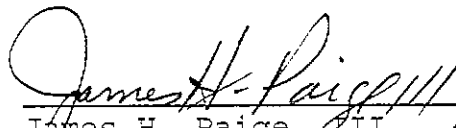
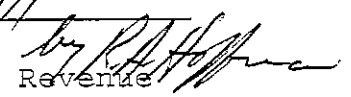
HANLEY C. CLARK  
Insurance Commissioner

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 51, relating to "Utilization Management."

Signed this 26<sup>th</sup> day of July, 1996.

  
James H. Paige, III  
Secretary of Tax and Revenue 

Insurance Commissioner  
Legislative Rule  
Title 114, Series 51

**Utilization Management**

Title 114, Series 51

**BRIEF SUMMARY OF RULE**

This proposed rule implements the provisions 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 utilization management programs required to be established as a component of the health maintenance organizations' quality assurance programs.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 51

**Utilization Management**

Title 114, Series 51

**STATEMENT OF CIRCUMSTANCES**

During the 1996 legislative session, the West Virginia Legislature passed House Bill 4511 which amended the Health Maintenance Organization Act. The rule sets forth the standards for utilization management programs required to be established as a component of the health maintenance organizations' quality assurance programs.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Utilization Management (Series 51 )

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Insurance Commissioner

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

=====

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.

Rule Title: Utilization Management ( Series 51 )

3. Objectives of these rules:

The objective of this rule is to set forth standards for utilization management programs established as a component of a health maintenance organizations' quality assurance program.

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.

May involve some cost to the health maintenance organizations when initially establishing a utilization maintenance program. Over time, the savings produced will outweigh costs.

C. Economic Impact on Citizens/Public at Large.

None

Date: 26 July 96

Signature of Agency Head or Authorized Representative

Stanley O. Clark

114CSR51  
WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 51  
UTILIZATION MANAGEMENT

Section	
§114-51-1.	General.
§114-51-2.	Definitions.
§114-51-3.	Goals of Utilization Management Program.
§114-51-4.	Requirements of Utilization Management Program.
§114-51-5.	Severability.

114CSR51  
WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 51  
UTILIZATION MANAGEMENT

FILED  
JUL 26 2 39 PM '96  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

§114-51-1. General.

1.1. Scope. -- The purpose of this rule is to set forth standards for utilization management programs established as a component of the health maintenance organizations' quality assurance programs.

1.2. Authority. -- W. Va. Code §§ 33-2-10, 33-25A-4(1)(b), and 33-25A-17a.

1.3. Filing Date. --

1.4. Effective Date. --

§114-51-2. Definitions.

2.1. "Concurrent review" means the process of continued reassessment of the medical necessity and appropriateness of inpatient care during hospitalization.

2.2. "Criteria" means systematically developed statements used to assess the appropriateness of specific health care decisions, services and outcomes.

2.3. "Health maintenance organization" or "HMO" means a public or private organization which provides, or otherwise makes available to enrollees, health care services, including at a minimum basic health care services, which:

a. Receives premiums for the provision of basic health care services to enrollees on a prepaid per capita or prepaid aggregate fixed sum basis, excluding copayments;

b. Primarily provides physicians' services:

1. Directly through physicians who are either employees or partners of the organization;

Insurance Commissioner  
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Title 114, Series 51

2. Through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice arrangement; or

3. Through some combination of paragraphs 1 and 2 of this subdivision;

c. Assures the availability, accessibility and quality, including appropriate utilization, of the health care services that it provides or makes available through clearly identifiable focal points of legal and administrative responsibility; and

d. Offers services through an organized delivery system, in which a primary care physician is designated for each subscriber upon enrollment. The primary care physician is responsible for coordinating the health care of the subscriber and is responsible for referring the subscriber to other providers when necessary: Provided, that when dental care is provided by the health maintenance organization the dentist selected by the subscriber from the list provided by the health maintenance organization shall coordinate the covered dental care of the subscriber, as approved by the primary care physician or the health maintenance organization.

2.4. "Member," "subscriber" or "enrollee" means an individual who has been enrolled in a health maintenance organization, including individuals on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

2.5. "Preauthorization" means prior assessment that proposed medical services are covered by the member's benefit plan and are appropriate for a particular member.

2.6. "Qualified medical professional" means a person licensed or certified pursuant to the laws of the State of West Virginia to provide health care services to persons.

2.7. "Utilization management" means a system for the evaluation of the necessity, appropriateness and efficiency of the use of health care services, procedures and facilities.

**§114-51-3. Goals of Utilization Management Program.**

3.1. The goals of a health maintenance organization's utilization management program shall be to:

a. Assure the provision of appropriate medical services delivered to members, while simultaneously addressing the effectiveness and quality of care;

b. Monitor, evaluate and improve the delivery of health care and resource utilization;

c. Provide a systematic process that promotes the delivery of medically appropriate care in a timely, effective and efficient manner, while maintaining the quality of health care;

d. Continually upgrade monitoring procedures to re-evaluate performance goals;

e. Monitor utilization practices of provider physicians, hospitals and ancillary providers; and

f. Direct members and providers toward the goal of quality, cost effective health care.

3.2. The health maintenance organization's utilization management program shall include a mechanism for identifying potential quality of care issues and linking them to the HMO's quality assurance program.

**§114-51-4. Requirements of Utilization Management Program.**

4.1. A health maintenance organization shall develop a utilization management program which adheres to all applicable

state and federal laws, federal regulations and state rules.

4.2. Each application for a certificate of authority or renewal thereof filed with the commissioner pursuant to the Health Maintenance Organization Act, W. Va. Code §§ 33-25A-1 et seq., shall be accompanied by a description of the health maintenance organization's utilization management program, which shall include, but not be limited to, the requirements of the utilization management program set forth in this rule.

a. Pursuant to the requirements of W. Va. Code § 33-25A-3, a health maintenance organization shall file notice with the commissioner prior to any modification of the utilization management program.

4.3. A health maintenance organization shall have a documented utilization management (UM) program description that describes both delegated and non-delegated activities.

a. The UM program description shall include, at a minimum, performance goals, policies and procedures to evaluate medical necessity, criteria used, information sources, and the process used to review and approve the provision of medical services.

b. The UM program shall have a mechanism for evaluating and updating the program description on a periodic basis which shall be specified by the health maintenance organization.

4.4. If a health maintenance organization delegates any UM activities to contractors, there shall be evidence of oversight of the contracted entity.

a. The health maintenance organization shall maintain a written description of:

1. The delegated activities;

Insurance Commissioner  
Legislative Rule  
Title 114, Series 51

2. The contractor's accountability for these activities;

3. The frequency of reporting to the health maintenance organization; and

4. The process by which the delegation will be evaluated.

b. The health maintenance organization shall maintain evidence of:

1. Approval of the contractor's UM program; and

2. Evaluation of regular UM reports from the contractor.

c. The health maintenance organization shall be responsible for monitoring the activities of the entity to which it delegates UM activities and for ensuring that the requirements of this rule are met.

4.5. Each health maintenance organization shall have written procedures for assuring that patient-specific information obtained during any UM activity will be:

a. Kept confidential in accordance with applicable federal and state laws; and

b. Used solely for the purposes of utilization management, quality assurance, discharge planning and catastrophic case management.

4.6. The UM program shall have a set of written utilization review decision protocols based on reasonable medical evidence.

a. A health maintenance organization shall have criteria for appropriateness of medical services clearly

documented and available, upon request, to participating physicians.

b. A health maintenance organization shall establish a mechanism for checking the consistency of application of criteria across reviewers.

c. A health maintenance organization shall establish a mechanism for updating review criteria on a periodic basis which shall be specified by the health maintenance organization.

4.7. The UM program shall have professionally accepted, pre-established criteria for the preauthorization of services and for concurrent review of admissions.

a. A health maintenance organization shall make efforts to obtain all necessary information, including pertinent clinical information, and consultation with the treating physician, as appropriate.

b. Qualified medical professionals shall review decisions for preauthorization of medical services and concurrent review of admissions.

c. A duly licensed physician shall conduct a review of medical appropriateness on any denial of medical services.

d. At any point during the review process, a licensed physician consultant specially trained in the area of medicine in question shall be available to provide expert opinion regarding medical appropriateness and necessity whenever necessary.

4.8. Decisions regarding provision of medical services shall be made in a timely manner depending upon the urgency of the situation.

a. The health maintenance organization shall establish medically appropriate time frames for urgent, emergency

and planned care cases.

b. In those instances in which a health maintenance organization denies medical services, a written notice of denial shall be sent immediately to all involved parties, which shall include, but not be limited to, the subscriber, the primary care physician, and the facility, if appropriate.

1. The written notice of denial shall include the reason for denial and an explanation of the appeal process.

4.9. A health maintenance organization may have policies and procedures in place to evaluate the appropriate use of new medical technologies, or new applications of established technologies, including medical procedures, drugs, and devices. Any policies and procedures in place regarding new medical technologies shall include standards requiring:

a. Appropriate professionals to participate in the development of technology evaluation criteria;

b. The review of information from appropriate health-related government agencies and/or government regulatory bodies and published scientific evidence;

c. Assessment of new technologies and new applications of existing technologies; and

d. Periodic evaluation and update of policies and procedures as technologies and procedures expand and change.

4.10. A health maintenance organization shall have mechanisms to evaluate the effects of the program using member satisfaction data, provider satisfaction data, and/or other appropriate means.

**§114-51-5. Severability.**

5.1. If any provision of this rule or the application of

Insurance Commissioner  
Legislative Rule  
Title 114, Series 51

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.

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



STATE OF WEST VIRGINIA  
SECRETARY OF STATE

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

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

(Plus all the volunteer  
help we can get)

TO: DONNA QUESENBERRY

AGENCY: INSURANCE COMMISSIONER

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 12, 1997

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUL 22 9 33 AM '97

FILED

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: 51 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: Donna L. Quisenberry

TITLE OF PERSON SIGNING: Associate Counsel

DATE: 7/13/97

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

TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 51  
UTILIZATION MANAGEMENT

§114-51-1. General.

1.1. Scope. -- The purpose of this rule is to set forth standards for utilization management programs established as a component of the health maintenance organizations' quality assurance programs.

1.2. Authority. -- W. Va. Code §§33-2-10, 33-25A-4(1)(b), and 33-25A-17a.

1.3. Filing Date. -- May 16, 1997.

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

§114-51-2. Definitions.

2.1. "Concurrent review" means the process of continued reassessment of the medical necessity and appropriateness of inpatient care during hospitalization.

→ ~~2.2.~~ ← "Criteria" means systematically developed statements used to assess the appropriateness of specific health care decisions, services and outcomes.

2.3. "Health maintenance organization" or "HMO" means a public or private organization which provides, or otherwise makes available to enrollees, health care services, including at a minimum basic health care services, which:

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b. ← Primarily provides physicians' services:

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4.2. ← Each application for a certificate of authority or renewal thereof filed with the commissioner pursuant to the Health Maintenance Organization Act, W. Va. Code

§ 33-25A-1 et seq., shall be accompanied by a description of the health maintenance organization's utilization management program, which shall include, but not be limited to, the requirements of the utilization management program set forth in this rule.

a. Pursuant to the requirements of W. Va. Code §33-25A-3, a health maintenance organization shall file notice with the commissioner prior to any modification of the utilization management program.

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3. The frequency of reporting to the health maintenance organization; and
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2. Evaluation of regular UM reports from the contractor.

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c. A health maintenance organization shall establish a mechanism for updating review criteria on a periodic basis which shall be specified by the health maintenance organization.

4.7. ~~The~~ UM program shall have professionally accepted, pre-established criteria for the preauthorization of services and for concurrent review of admissions.

a. A health maintenance organization shall, on a timely basis, make efforts to obtain all necessary information, including pertinent clinical information, and consultation with the treating physician, as appropriate.

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c. ~~A~~ duly licensed physician shall conduct a review of medical appropriateness on any denial of medical services.

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- b. <sup>The</sup> ~~the~~ review of information from appropriate health-related government agencies and/or government regulatory bodies and published scientific evidence;
- c. <sup>Assessment</sup> ~~assessment~~ of new technologies and new applications of existing technologies; and
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