

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

m #4

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FILED

FEB 18 3 25 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-4(1), 33-25A-17a

AMENDMENT TO AN EXISTING RULE: YES ___ NO XX

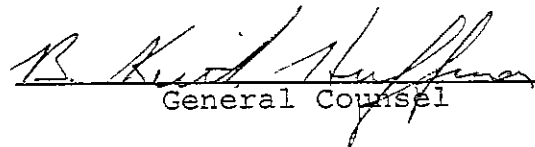
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 51

TITLE OF RULE BEING PROPOSED: Utilization Management

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

4.40



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 "Utilization Management."
(Series 51)

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script that reads "Donna L. Quesenberry".

Donna Quesenberry
Associate Counsel

DQ/kb

Enclosures



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

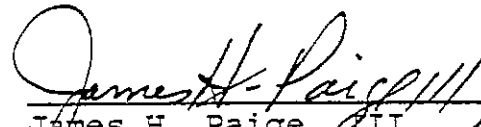
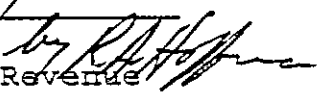
HANLEY C. CLARK
Insurance Commissioner

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 26th day of July, 1996.


James H. Paige, III
Secretary of Tax and Revenue 

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.

FILED

114CSR51
WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

FEB 18 3 25 PM '97

SERIES 51
UTILIZATION MANAGEMENT

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 in which he or she practices to provide health care services to persons.

2.7. "Utilization management" or "UM" 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 (UM) 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 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.

Insurance Commissioner
Legislative Rule
Title 114, Series 51

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

1. The delegated activities;
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, in addition to quality assurance, discharge planning and catastrophic case management.

4.6. The UM program shall have 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 the application of criteria utilized by 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, on a timely basis, 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 his or her expert opinion regarding medical appropriateness and necessity of medical services 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.

Insurance Commissioner
Legislative Rule
Title 114, Series 51

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.



FILED

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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

February 11, 1997

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. B. Keith Huffman
Office of the Insurance Commissioner
Legal Division
P. O. Box 50540
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Utilization Management 114-51

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____

Senate Bill No. 190

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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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 utilization
15 management.

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.

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
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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 ten, article two, chapter thirty-three, of this
9 code, modified by the insurance commissioner to meet the
10 objections of the legislative rule-making review committee
11 and refiled in the state register on the eighteenth day of
12 February, one thousand nine hundred ninety-seven, relating
13 to the insurance commissioner (utilization management, 114
14 CSR 51), 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 Utilization Management.

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.

2352

1 Bill-Ins, Utilization (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.]
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114-51

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