

John D. Rockefeller IV
Governor



chairperson
Sally K. Richardson
members
Larry Fizer
William L. Gilligan

Health Care Cost Review Authority

State Capitol Building
Charleston, West Virginia 25305

December 21, 1984

The Honorable A. James Manchin
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Mr. Manchin:

Re: A Notice of Adoption of Proposed Legislative
Rules to Implement Utilization Review and
Quality Assurance Program - Phase 1

Pursuant to West Virginia Code, Section 29-A-3-1, et seq., please file in the State Register this notice and the proposed legislative rules. The Authority is concurrently submitting these to the Legislative Rule-Making Committee in accordance with the above-noted Act.

These rules were earlier filed with your office as an initial proposed rule and was also submitted on an emergency basis.

The present proposed filing will not be effective until the Legislature approves them as provided by law. However, the emergency rules, which are also being amended as of this date, are and will remain in effect until that time.

Sincerely,

A handwritten signature in cursive script that reads "Sally K. Richardson".

SALLY K. RICHARDSON
Chairperson

SKR/JHK/lq

Enclosures

FILED
1984 DEC 21 PM 1:11
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE


Appendix D

Notice of Agency Approval

Legislative Rule: Legislative Rules to Implement Utilization Review
and Quality Assurance Program - Phase 1
(Chapter 16-29B, Series IV (1984))

The above titled legislative rule constitutes the official
rule approved by the WV Health Care Cost Review Authority on
the 17th day of December, 1984, and filed pursuant to law in
the Office of the Secretary of State, State of West Virginia.

The above titled legislative rule is hereby submitted to the
Legislative Rule-Making Review Committee.



Sally K. Richardson, Chairperson

12/21/84
Entered

September-13,-1984
December 21, 1984

LEGISLATIVE RULES

WEST VIRGINIA
HEALTH CARE COST REVIEW AUTHORITY

LEGISLATIVE RULES TO IMPLEMENT UTILIZATION REVIEW
AND QUALITY ASSURANCE PROGRAM - PHASE 1

Chapter 16-29B
Series IV
(1984)

WEST VIRGINIA HEALTH CARE COST REVIEW AUTHORITY

LEGISLATIVE RULES

LEGISLATIVE RULES TO IMPLEMENT UTILIZATION
REVIEW AND QUALITY ASSURANCE PROGRAM - PHASE 1

Chapter 16-29B
Series IV
(1984)

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LEGISLATIVE RULES

WEST VIRGINIA HEALTH CARE COST REVIEW AUTHORITY

Chapter 16-29B
Series IV
(1984)

Subject: Legislative Rules To Implement Utilization Review And Quality Assurance Program - Phase 1

Section 1. General.

1.01. Scope. These rules set forth initial requirements for the implementation of the utilization review and quality assurance program mandated by West Virginia Code, §16-29B-23. The requirements include specified time periods for the filing of information and descriptions of what must be filed. Also included is a description of a peer review organization. These rules supplement the Health Care Cost Review Authority Act, West Virginia Code, §§16-29B-1 et seq., as amended, and the West Virginia Administrative Procedures Act, West Virginia Code, §§29A-1-1 et seq., as amended, and must be read in conjunction with those Acts.

1.02. Authority. These rules are issued under the authority of the Health Care Cost Review Authority Act, West Virginia Code, §§16-29B-8(a)(1), -23, the Administrative Procedures Act, West Virginia Code, §§29A-2-9,-15, and the Freedom of Information Act, West Virginia Code, §29B-1-3.

1.03. Filing Date. These rules were promulgated on _____
_____, _____, and were filed in the Office of the Secretary of State
on _____, _____.

1.04. Effective Date. These rules are effective on _____
_____, _____.

Section 2. Definitions. As used in these rules, all terms have the same meaning as provided in the definition section of the Health Care Cost Review Authority Act, West Virginia Code, §16-29B-3. Definitions of additional terms are set forth below and whenever those terms are used in these rules the following definitions apply, unless a different meaning clearly appears from the context.

2.01. Act means the West Virginia Health Care Cost Review Authority Act, West Virginia Code, §§16-29B-1 et seq., as amended.

2.02. Authority means the West Virginia Health Care Cost Review Authority, an autonomous division within the State Department of Health, established pursuant to West Virginia Code, §16-29B-5.

2.03. Contractor means the person or persons who enter into agreements with the Authority for the performance of duties required by the Authority's utilization review and quality assurance program.

2.04. Person means a natural person, a corporation, association, or other legal entity.

2.05. Program means the Authority's utilization review and quality assurance program required by Section 23 of the Act.

2.06. UB-82 means Uniform Bill-82.

Section 3. Professional Review Organization. In order to carry out its duties under the Act for the establishment of a utilization review and quality assurance program, the Authority must have available to it qualified medical and surgical expertise and the requisite data storage and handling capabilities. Accordingly, the Authority will, from time to time, enter into a contract or contracts with a person or persons to collect patient information, to process that information, and to compile reports from that information in formats to be determined by the Authority.

3.01. West Virginia Medical Institute, Inc. The initial contractor shall be the West Virginia Medical Institute, Inc., a West Virginia corporation, whose principle place of business is located in Charleston, West Virginia. The West Virginia Medical Institute, Inc., is presently the holder of the contract with the Health Care Financing Administration of the United States Department of Health and Human Services to operate a peer review organization for the federal medicare program in the State of West Virginia.

3.02. Subsequent Contractors. The Authority may in the future either contract with the West Virginia Medical Institute, Inc., or with one or more other persons for the performance of subsequent programs under the terms of these rules.

Section 4. Patient Data.

4.01. Hospitals. Each hospital covered by the Act must submit one complete copy of the ~~form~~ UB-82 data for each and every one of its inpatients, except that, individual patient names and street addresses will not be required. To the extent that a particular hospital must already submit a complete copy of UB-82 ~~forms~~ data for one or more classes of patients (e.g., medicare or medicaid) to the contractor, then such submissions need not be duplicated and the previously required submission will suffice.

4.02. Data Format. The UB-82 ~~forms~~ data must be submitted to the contractor on Industry Standard 1600 BPI tape ~~or open-Wang-format-tape-or open-similar-computer-tape-format.~~ with IBM tape labels or unlabeled with block size of 10 and record size clearly specified. Hard copies of the UB-82 ~~forms~~ data are not to be submitted to the contractor unless the hospital does not itself have access to one of the above noted computer tape formats and unless the hospital first notifies the contractor.

Section 5. Patient Confidentiality. The contractor, and its officers, employees, and agents, as well as the Authority, and its officers, employees, and agents, shall maintain the confidentiality of all personal medical information personally identifiable to a purchaser. The hospitals shall submit and the contractor shall collect such confidential data from the hospitals from the UB-82 ~~forms~~ data and provide it to the Authority as provided for in its agreement with the Authority.

Section 6. Sanctions. Any person or persons who violate or refuse to comply with the requirements of these rules shall be subject to remedial action as provided for under the Act including criminal penalties as provided for by West Virginia Code, §16-29B-27, orders of enforcement as provided for by West Virginia Code, §16-29B-15, civil actions as provided for by West Virginia Code, §16-29B-14, and such other sanctions as are reasonably necessary or essential to effect the express objectives and purposes of the Act as provided for by West Virginia Code, §16-29B-8(a)(6).

Section 7. Phase 2. These rules cover only phase 1 of the Authority's program under Section 23(a) of the Act. Phase 2 of the program will consist of the implementation of the provisions of Section 23(b) and (c) of the Act. Phase 2 will be developed following the collection of this initial data and following the required hearings.

Section 8. Severability. If any provision or provisions of these rules or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of these rules which can be given effect without the invalid provision or provisions or application and to this end the provisions of these rules are declared to be severable.

WEST VIRGINIA HEALTH CARE COST REVIEW AUTHORITY

LEGISLATIVE RULES

LEGISLATIVE RULES TO IMPLEMENT UTILIZATION REVIEW
AND QUALITY ASSURANCE PROGRAM - PHASE 1

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Reasons for Amendments

Rule Title: Legislative Rules to Implement Utilization Review and
Quality Assurance Program -- Phase 1


Agency: WV Health Care Cost Review Authority

FILED
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OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

Section 4.01 of the above-cited rules is to include the word "data" in lieu of the word "form" so that there would be no misinterpretation regarding submission of the UB-82 data that is submitted on computer tape. We also added language which clarified that we will not be asking or requiring individual patient names and addresses to be submitted to the Authority. There were several comments in the public hearing regarding patient confidentiality and the new language is intended to indicate the Authority's intent regarding patient confidentiality also.

The new language under 4.02 regarding the addition of IBM tape labels or unlabeled tapes with a block size of 10 and record size clearly specified is information which is required in order to load the tapes on to the computer. It was felt this information should be included on the tapes in order to eliminate phone calls to the hospitals to request this information.

Signature of Agency Head or Authorized Representative



Date: 12/21/84

WEST VIRGINIA HEALTH CARE COST REVIEW AUTHORITY

Public Hearing Minutes
October 15, 1984

The Authority held a public hearing on the following proposed regulations:

Legislative Rules to Implement
Utilization Review and Quality
Assurance Programs - Phase I

Presiding: Bill J. Crouch, Executive Director

Staff Present:

Lynne White
Ray Shingler
Linda Quigley

Public Present:

See attached list.

PUBLIC COMMENTS

1. Mr. Joseph Miller, West Virginia Hospital Association, stated that the Hospital Association was concerned about the confidentiality of information regarding patient names and addresses, but since the need to list this information has been deleted, they are satisfied. He commended the Authority for deleting this information and asked for reassurance that it would not be required in the future. Bill Crouch stated that he could not speak for the Authority officially, but did say that there is no intention at this point to collect any patient identifying information other than Social Security or Patient Control Numbers -- something that when a record needs to be updated -- we know which record to go to and what type of correction needs to be made, etc.
2. Larry Robertson, Charleston Area Medical Center, presented written comments for review and consideration.

There being no further comments, the hearing adjourned.

maj



CHARLESTON AREA MEDICAL CENTER
FINANCIAL SERVICES

Washington at Brooks Street • P.O. Box 1547
Charleston, West Virginia 25326 • 304/348-9480

October 15, 1984

Mrs. Sally K. Richardson, Chairperson
West Virginia Health Care Cost Review Authority
State Capitol Building
Charleston, West Virginia 25305

Re: Legislative Rules to Implement
Utilization Review and Quality
Assurance Programs - Phase 1

Dear Mrs. Richardson:

At your request, we have reviewed the proposed set of Legislative Rules dealing with the Utilization Review and Quality Assurance Programs which the Authority is required by West Virginia Code to implement. The following comments represent the collective efforts of selected CAMC management personnel and are presented for your consideration prior to the approval of final rules and regulations as they pertain to the Authority's quest for effective Utilization Review and Quality Assurance Programs.

o Patient Confidentiality - we have a valid concern for the lack of any defined safeguards to insure the confidentiality of all patient data that hospitals will be required to submit to the Authority. The very fact that the proposed rules and regulations (Section 1.02) are issued under the Authority of the Freedom of Information Act implies the information will be available for the public's consumption. Even if Sections 5 and 6 are adhered to, what assurances do providers have that the information will not "leak out" or be released by someone not aware of the confidential nature of the data?

Sally K. Richardson
October 15, 1984
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We are not yet convinced that the providers can legally transfer patient data to the Authority in as much as each patient currently must sign a "release" of information before any data is transmitted to third party payors, etc. The standard release being used by hospitals does not contain language regarding the release of data to the Authority. Even if we adjust the standard release to include a provision for releasing the data to the Authority, what do we do if the patient refuses us permission to do so? If we honor the patient's request not to transfer data, will we be in violation of the law? On the other hand, if we transfer data to the Authority without permission, we could be opening ourselves to a series of expensive and time consuming legal suits.

We feel the Authority needs to review the issue regarding patient confidentiality with its legal advisors and define a working program of legitimate safeguards which will guarantee the privacy of any and all data transferred to the Authority. Also, these same advisors need to review the question of whether this information can be released under current state statutes without a signed release by the patient.

o UB-82 Billings - As of this date, CAMC and numerous other hospitals throughout West Virginia utilizing McDonnell Douglas Automation (McAuto) as their computer service, do not have the means to transfer the required data to the Authority via electronic data processing. McAuto has publicly announced that it is not willing to invest the time and funds necessary to develop a "print module" for UB-82 billings because the Federal government is not willing to make a commitment on the long term use of the UB-82 format. McAuto is afraid that the form may become obsolete in the near future and be replaced by a newer billing

Sally K. Richardson
October 15, 1984
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standard. Such a move would be costly for McAuto and at this point they are not willing to take this gamble on the national level, much less on a state-by-state basis.

Paper billings would be very costly to a provider the size of CAMC. Also, I don't think the Authority wants to receive some 40,000 (CAMC annual discharges) hard copies of patient bills which would not only require storage, but would require the data to be entered into the Authority's system by Authority personnel. Accordingly then, some happy medium is going to have to be reached on just how McAuto hospitals are going to submit data to the Authority in a timely and cost efficient manner. As a matter of fact, most special functions generated by the McAuto system are assessed on a per discharge basis. The current rate approximates \$2 per discharge. With 40,000 discharges annually, CAMC would incur computer costs of \$80,000. Additional costs incurred by our Patient Accounts and Data Processing departments could push the cost of compliance well over the \$100,000 mark.

With any system of submission, the providers are going to incur additional expenses that would not be incurred were it not for these new rules and regulations. This leads us to another suggestion. It appears at this point, that the Authority's intent is to gather a massive amount of data and then later decide just how to interpret such information and use it effectively. Perhaps it would be in the best interests of all parties concerned to define what your data objectives are and how you wish to achieve such goals. The wholesale collection of information will prove to be expensive and time consuming for both providers and the Authority.

Sally K. Richardson
October 15, 1984
Page Four

Nowhere in the regulations is there any mention of how the data is to be reviewed, utilized and/or reported. It may be that the information you are requesting is already being accumulated by the hospitals and could be submitted to the Authority in the form of an annual report as opposed to on an individual, patient-by-patient basis. Again, if the Authority were to define its data objectives, it might be possible for providers to alternatively submit summary data which could be done in a much more cost efficient manner.

The rules and regulations as promulgated are limited in scope and content and therefore, do not lend themselves to lengthy comments. Consequently, our comments are limited to the aforementioned two issues. We would like to add however, that as of this date, William Crouch and Debbie Britt have been very cooperative as we attempt to find a mutual solution to the McAuto tape problem. Their recent involvement with CAMC has proved to be a very worthwhile and productive example of how the Authority and the providers can work together to achieve results that hopefully will make the Authority's job easier and at the same time be cost effective for all hospitals in West Virginia.

Respectively submitted,



Larry E. Robertson
Director of Financial Services

LER:c1b

Copy: Board Members
John K
Bill C
Rob Anagnosto

ROANE GENERAL HOSPITAL



200 HOSPITAL DRIVE

SPENCER, WEST VIRGINIA 25276

TELEPHONE 927-4444 • AREA CODE 304
October 2, 1984

Board Members
Health Care Cost Review Authority
100 Dee Drive
Charleston, WV 25311

Dear Board Members:

The following written comments on the Legislative Rules to Implement Utilization Review and Quality Assurance Program are being submitted as they pertain to Roane General Hospital.

Section 4. Patient Data

4.01 Hospitals. Roane General Hospital contracts with McDonnell Douglas Automation System (McAuto) via a shared system to maintain patient receivable files and billings. UB-82 inpatient information is submitted to the Intermediary for reimbursement by tape for Medicare patients. The system does provide a UB-82 hard copy for all other commercial insurance carriers. However, a hard copy UB-82 is not provided for self-pay patients, which subsequently could be classified as bad debt or charity care. The per discharge cost to Roane General would be prohibitive if McAuto had to search our files and create another tape of all other patients for UB-82 submission.

4.02. Data Format. The tape submitted to the intermediary by McAuto is not Industry Standard 1600 BPI tape or Wang format tape. The cost to Roane General would be prohibitive for McAuto to create another tape with the data format as prescribed in the proposed rules.

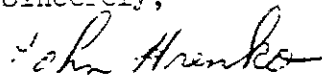
Section 5. Patient Confidentiality

Roane General Hospital is concerned that the confidential medical information of its patients can be breached once in the control of the Authority or its contractor. There is no provision in this section that addresses the consequences or recourse should confidentiality be violated.

Page 2.

Should you have any questions, about the comments or concerns expressed, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "John Hrenko".

John Hrenko
Comptroller

**HEALTH
INSURANCE
ASSOCIATION
OF AMERICA**

919 Third Avenue, New York, N.Y. 10022-9990, (212) 486-5520

Sara J. Frey
Assistant Director—Consumer and Professional Relations

*Copy: Board Members
John K.
Bill C.
Rita Anelyata*

October 1, 1984

Ms. Sally Richardson
Chairperson
West Virginia Health Care
Cost Review Authority
State Capitol Building
Charleston, West Virginia 25305

Dear Sally:

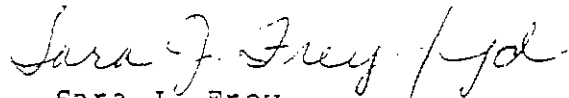
On behalf of the Health Insurance Association of America, I have reviewed the Legislative Rules to Implement Utilization Review and Quality Assurance Program - Phase I [Chapter 16-29B, Series IV (1984), September 13, 1984], and submit to you for response several questions that we have regarding the rules.

1. How is the contract amount going to be negotiated with the West Virginia Medical Institute, Inc. and any subsequent contractors?
2. What mechanism is the Authority intending to utilize to finance the utilization review and quality assurance program for which it contracts?
3. Will the review be delegated or nondelegated as related to nonMedicare patients?
4. Currently, a number of HIAA member companies participate in preadmission certification and concurrent review programs with nonprofit or proprietary review organizations, or conduct such programs in-house. We are concerned that there may be duplication of review if such activities are being conducted in West Virginia by or on behalf of commercial insurance companies. Query: Is any provision going to be made to remedy any duplicative efforts, and if so, what is the remedy envisioned?

We hope that the above issues will be addressed in the legislative rules currently under consideration. Thank you once again for extending the opportunity to participate in the rulemaking process to the HIAA. We are pleased to see that the West Virginia hospital cost containment program is being implemented with ample occasion for comment and debate. I shall look forward to receiving your response.

Best regards.

Sincerely,



Sara J. Frey
Assistant Director

SJF:km

cc: Mr. John Hurley
Mr. Louis Saporito

