

SENATE BILL 435

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1998 Regular Session
8r1781
CF 8r1761

By: **Senator Hollinger**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health - Utilization Review**

3 FOR the purpose of altering the time frame when a private review agent must
4 authorize or certify an extended stay in a health care facility or additional
5 health care services; altering the contents of a utilization review plan; altering a
6 certain definition; altering the circumstances under which a private review
7 agent may retrospectively render an adverse decision regarding the
8 preauthorized or approved services delivered to a patient; altering the penalties
9 for certain violations; and generally relating to utilization review.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 19-1301(e), 19-1305(a), 19-1305.2(c), 19-1305.3(a) and (b), and
13 19-1312
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Health - General**

19 19-1301.

20 (e) "Utilization review" means a system for reviewing the appropriate and
21 efficient allocation of [hospital] HEALTH CARE resources and services given or
22 proposed to be given to a patient or group of patients.

23 19-1305.

24 (a) In conjunction with the application, the private review agent shall submit
25 information that the Secretary requires including:

26 (1) A utilization review plan that includes:

- 1 (i) The specific criteria and standards to be used in conducting
2 utilization review of proposed or delivered services;
- 3 (ii) Those circumstances, if any, under which utilization review may
4 be delegated to a hospital utilization review program; and
- 5 (iii) The provisions by which patients, physicians, or hospitals may
6 seek reconsideration or appeal of adverse decisions by the private review agent;
- 7 (2) The type and qualifications of the personnel either employed or
8 under contract to perform the utilization review;
- 9 (3) The procedures and policies to ensure that a representative of the
10 private review agent is reasonably accessible to patients and providers [5] 7 days a
11 week [during normal business hours] 8 HOURS A DAY in this State;
- 12 (4) The policies and procedures to ensure that all applicable State and
13 federal laws to protect the confidentiality of individual medical records are followed;
- 14 (5) A copy of the materials designed to inform applicable patients and
15 providers of the requirements of the utilization review plan;
- 16 (6) A list of the third party payors for which the private review agent is
17 performing utilization review in this State;
- 18 (7) The [policies and procedures to ensure that the private review agent
19 has] CURRICULA AND PROCESSES FOR ONGOING IMPLEMENTATION OF a formal
20 program for the orientation and training of the personnel either employed or under
21 contract to perform the utilization review;
- 22 (8) A list of the health care providers involved in establishing the specific
23 criteria and standards to be used in conducting utilization review; and
- 24 (9) Certification by the private review agent that the criteria and
25 standards to be used in conducting utilization review are:
- 26 (i) Objective;
- 27 (ii) Clinically valid;
- 28 (iii) Compatible with established principles of health care; and
- 29 (iv) Flexible enough to allow deviations from norms when justified
30 on a case by case basis.
- 31 19-1305.2.
- 32 (c) (1) Except as provided in paragraph (2) of this subsection, if a course of
33 treatment has been preauthorized or approved for a patient, a private review agent
34 may not retrospectively render an adverse decision regarding the preauthorized or
35 approved services delivered to that patient.

1 (2) A private review agent may retrospectively render an adverse
2 decision regarding preauthorized or approved services delivered to a patient if:

3 (i) The patient, on the date the services were rendered, was not
4 insured by or an enrollee, subscriber, or member of the entity that the private review
5 agent is affiliated with, under contract with, or acting on behalf of;

6 (ii) The information submitted to the private review agent
7 regarding the services to be delivered to the patient was fraudulent or intentionally
8 misrepresentative or critical information requested by the private review agent
9 regarding services to be delivered to the patient was omitted such that the private
10 review agent's determination would have been different had it known the critical
11 information; OR

12 (iii) [Except for determinations of appropriateness or medical
13 necessity of the covered services that were preauthorized, the services would not be
14 covered in whole or in part under the policy or contract; or

15 (iv)] The planned course of treatment for the patient that was
16 approved by the private review agent was not substantially followed by the provider.
17 19-1305.3.

18 (a) Except as provided in subsection (b) of this section, a private review agent
19 shall:

20 (1) Make all initial determinations on whether to authorize or certify a
21 nonemergency course of treatment for a patient within 2 working days of receipt of
22 the CLINICAL information necessary to make the determination; and

23 (2) Promptly notify the attending health care provider and patient of the
24 determination.

25 (b) A private review agent shall:

26 (1) Make all determinations on whether to authorize or certify an
27 extended stay in a health care facility or additional health care services [within 1
28 working] THE SAME day of receipt of the CLINICAL information necessary to make
29 the determination; and

30 (2) [Promptly] WITHIN THE SAME DAY notify the attending health care
31 provider AND THE UTILIZATION REVIEW DEPARTMENT OF THE HEALTH CARE
32 FACILITY of the determination.

33 19-1312.

34 (a) A person who violates any provision of this subtitle or any regulation
35 adopted under this subtitle is guilty of a misdemeanor and on conviction is subject to
36 a penalty not exceeding [\$1,000] \$5,000. Each day a violation is continued after the
37 first conviction is a separate offense.

1 (b) (1) In addition to the provisions of subsection (a) of this section, the
2 Secretary may impose an administrative penalty of up to [~~\$1,000~~] \$5,000 for a
3 violation of any provision of this subtitle.

4 (2) The Secretary shall adopt regulations to provide standards for the
5 imposition of an administrative penalty under paragraph (1) of this subsection.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1998.