SENATE BILL 435

Unofficial Copy 1998 Regular Session
J3 8lr1781
CF 8lr1761

By: **Senator Hollinger**
Introduced and read first time: February 6, 1998
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 2, 1998

CHAPTER_______

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 FOR the purpose of requiring the Insurance Commissioner, in consultation with the
11 Maryland Hospital Association, the Maryland Association of Health
12 Maintenance Organizations, the League of Life and Health Insurers, the
13 Medical-Chirurgical Faculty of Maryland, and other interested organizations
14 representing health care providers and health insurance carriers, to study
15 hospital utilization review and report to certain legislative committees by a
16 certain date.

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article - Health - General~~
19 ~~Section 19-1301(e), 19-1305(a), 19-1305.2(c), 19-1305.3(a) and (b), and~~
20 ~~19-1312~~
21 ~~Annotated Code of Maryland~~
22 ~~(1996 Replacement Volume and 1997 Supplement)~~

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

1 ~~**Article - Health - General**~~

2 ~~19-1301.~~

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

6 ~~19-1305.~~

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

9 ~~(1) A utilization review plan that includes:~~

10 ~~(i) The specific criteria and standards to be used in conducting~~
11 ~~utilization review of proposed or delivered services;~~

12 ~~(ii) Those circumstances, if any, under which utilization review may~~
13 ~~be delegated to a hospital utilization review program; and~~

14 ~~(iii) The provisions by which patients, physicians, or hospitals may~~
15 ~~seek reconsideration or appeal of adverse decisions by the private review agent;~~

16 ~~(2) The type and qualifications of the personnel either employed or~~
17 ~~under contract to perform the utilization review;~~

18 ~~(3) The procedures and policies to ensure that a representative of the~~
19 ~~private review agent is reasonably accessible to patients and providers [5] 7 days a~~
20 ~~week [during normal business hours] 8 HOURS A DAY in this State;~~

21 ~~(4) The policies and procedures to ensure that all applicable State and~~
22 ~~federal laws to protect the confidentiality of individual medical records are followed;~~

23 ~~(5) A copy of the materials designed to inform applicable patients and~~
24 ~~providers of the requirements of the utilization review plan;~~

25 ~~(6) A list of the third party payors for which the private review agent is~~
26 ~~performing utilization review in this State;~~

27 ~~(7) The [policies and procedures to ensure that the private review agent~~
28 ~~has] CURRICULA AND PROCESSES FOR ONGOING IMPLEMENTATION OF a formal~~
29 ~~program for the orientation and training of the personnel either employed or under~~
30 ~~contract to perform the utilization review;~~

31 ~~(8) A list of the health care providers involved in establishing the specific~~
32 ~~criteria and standards to be used in conducting utilization review; and~~

33 ~~(9) Certification by the private review agent that the criteria and~~
34 ~~standards to be used in conducting utilization review are:~~

1 ~~(i) Objective;~~

2 ~~(ii) Clinically valid;~~

3 ~~(iii) Compatible with established principles of health care; and~~

4 ~~(iv) Flexible enough to allow deviations from norms when justified~~
5 ~~on a case by case basis.~~

6 ~~19-1305.2.~~

7 ~~(c) (1) Except as provided in paragraph (2) of this subsection, if a course of~~
8 ~~treatment has been preauthorized or approved for a patient, a private review agent~~
9 ~~may not retrospectively render an adverse decision regarding the preauthorized or~~
10 ~~approved services delivered to that patient.~~

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

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

16 ~~(ii) The information submitted to the private review agent~~
17 ~~regarding the services to be delivered to the patient was fraudulent or intentionally~~
18 ~~misrepresentative or critical information requested by the private review agent~~
19 ~~regarding services to be delivered to the patient was omitted such that the private~~
20 ~~review agent's determination would have been different had it known the critical~~
21 ~~information; OR~~

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

25 ~~(iv)] The planned course of treatment for the patient that was~~
26 ~~approved by the private review agent was not substantially followed by the provider.~~
27 ~~19-1305.3.~~

28 ~~(a) Except as provided in subsection (b) of this section, a private review agent~~
29 ~~shall:~~

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

33 ~~(2) Promptly notify the attending health care provider and patient of the~~
34 ~~determination.~~

35 ~~(b) A private review agent shall:~~

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

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

~~19-1312.~~

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

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

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

(a) The Insurance Commissioner, in consultation with the Maryland Hospital Association, the Maryland Association of Health Maintenance Organizations, the League of Life and Health Insurers, the Medical-Chirurgical Faculty of Maryland, and other interested organizations representing health care providers and health insurance carriers shall study hospital utilization review, including:

(1) the availability of clear and consistent operating policies and procedures;

(2) the use of concurrent, rather than retrospective, review and the availability of personnel needed for concurrent review;

(3) payment for ancillary services, when payment is denied for hospital days;

(4) the appropriate use of industry guidelines in reviewing the unique health care service requirements of individual patients; and

(5) the cooperation of health insurance carriers and health care providers in hospital discharge planning.

(b) The Commissioner shall report the findings and recommendations of the study to the Senate Finance Committee, House Economic Matters Committee, and House Environmental Matters Committee on or before December 1, 1998.

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