
By: **Delegates Morhaim, Frank, Hammen, Hubbard, Kach, Murray,
Nathan-Pulliam, Oaks, and Taylor**

Introduced and read first time: February 1, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance - Private Review Agents - Emergency Inpatient Admission**
3 **Determinations**

4 FOR the purpose of requiring a private review agent to submit certain information to
5 the Maryland Insurance Commissioner regarding procedures and policies for
6 making certain determinations for emergency inpatient admissions for the
7 treatment of a mental, emotional, or substance abuse disorder; requiring a
8 private review agent to make certain determinations for the emergency
9 inpatient admissions within a certain period of time; requiring a private review
10 agent to promptly notify a certain health care provider of the determination
11 made by the private review agent; requiring a private review agent to provide a
12 health care provider the opportunity to speak with a certain physician within a
13 certain period of time under certain circumstances; altering the time period
14 during which a private review agent is prohibited from rendering an adverse
15 decision as to an admission of a patient under certain circumstances; and
16 generally relating to private review agents and emergency inpatient admission
17 determinations.

18 BY repealing and reenacting, with amendments,
19 Article - Insurance
20 Section 15-10B-05(a) and 15-10B-06
21 Annotated Code of Maryland
22 (2002 Replacement Volume and 2005 Supplement)

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

25 **Article - Insurance**

26 15-10B-05.

27 (a) In conjunction with the application, the private review agent shall submit
28 information that the Commissioner requires including:

- 1 (1) a utilization review plan that includes:
- 2 (i) the specific criteria and standards to be used in conducting
3 utilization review of proposed or delivered health care services;
- 4 (ii) those circumstances, if any, under which utilization review may
5 be delegated to a hospital utilization review program; and
- 6 (iii) if applicable, any provisions by which patients, physicians, or
7 hospitals may seek reconsideration;
- 8 (2) the type and qualifications of the personnel either employed or under
9 contract to perform the utilization review;
- 10 (3) a copy of the private review agent's internal grievance process if a
11 carrier delegates its internal grievance process to the private review agent in
12 accordance with § 15-10A-02(l) of this title;
- 13 (4) the procedures and policies to ensure that a representative of the
14 private review agent is reasonably accessible to patients and health care providers 7
15 days a week, 24 hours a day in this State;
- 16 (5) THE PROCEDURES AND POLICIES TO ENSURE THAT A
17 REPRESENTATIVE OF THE PRIVATE REVIEW AGENT IS ACCESSIBLE TO HEALTH CARE
18 PROVIDERS TO MAKE ALL DETERMINATIONS ON WHETHER TO AUTHORIZE OR
19 CERTIFY AN EMERGENCY INPATIENT ADMISSION FOR THE TREATMENT OF A
20 MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER WITHIN 2 HOURS AFTER
21 RECEIPT OF THE INFORMATION NECESSARY TO MAKE THE DETERMINATION;
- 22 [(5)] (6) the policies and procedures to ensure that all applicable State
23 and federal laws to protect the confidentiality of individual medical records are
24 followed;
- 25 [(6)] (7) a copy of the materials designed to inform applicable patients
26 and providers of the requirements of the utilization review plan;
- 27 [(7)] (8) a list of the third party payors for which the private review
28 agent is performing utilization review in this State;
- 29 [(8)] (9) the policies and procedures to ensure that the private review
30 agent has a formal program for the orientation and training of the personnel either
31 employed or under contract to perform the utilization review;
- 32 [(9)] (10) a list of the persons involved in establishing the specific criteria
33 and standards to be used in conducting utilization review; and
- 34 [(10)] (11) certification by the private review agent that the criteria and
35 standards to be used in conducting utilization review are:
- 36 (i) objective;

- 1 (ii) clinically valid;
- 2 (iii) compatible with established principles of health care; and
- 3 (iv) flexible enough to allow deviations from norms when justified
- 4 on a case by case basis.

5 15-10B-06.

6 (a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
7 A private review agent shall:

8 (i) make all initial determinations on whether to authorize or
9 certify a nonemergency course of treatment for a patient within 2 working days after
10 receipt of the information necessary to make the determination;

11 (ii) make all determinations on whether to authorize or certify an
12 extended stay in a health care facility or additional health care services within 1
13 working day after receipt of the information necessary to make the determination;
14 and

15 (iii) promptly notify the health care provider of the determination.

16 (2) If within 3 calendar days after receipt of the initial request for health
17 care services the private review agent does not have sufficient information to make a
18 determination, the private review agent shall inform the health care provider that
19 additional information must be provided.

20 (3) FOR AN EMERGENCY INPATIENT ADMISSION FOR THE TREATMENT
21 OF A MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER, A PRIVATE REVIEW
22 AGENT SHALL:

23 (I) MAKE ALL DETERMINATIONS ON WHETHER TO AUTHORIZE OR
24 CERTIFY AN INPATIENT ADMISSION WITHIN 2 HOURS AFTER RECEIPT OF THE
25 INFORMATION NECESSARY TO MAKE THE DETERMINATION; AND

26 (II) PROMPTLY NOTIFY THE HEALTH CARE PROVIDER OF THE
27 DETERMINATION.

28 (b) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
29 IF an initial determination is made by a private review agent not to authorize or
30 certify a health care service and the health care provider believes the determination
31 warrants an immediate reconsideration, a private review agent may provide the
32 health care provider the opportunity to speak with the physician that rendered the
33 determination, by telephone on an expedited basis, within a period of time not to
34 exceed 24 hours of the health care provider seeking the reconsideration.

35 (2) IF AN INITIAL DETERMINATION IS MADE BY A PRIVATE REVIEW
36 AGENT NOT TO AUTHORIZE OR CERTIFY AN EMERGENCY INPATIENT ADMISSION FOR
37 THE TREATMENT OF A MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER AND

1 THE HEALTH CARE PROVIDER BELIEVES THE DETERMINATION WARRANTS AN
2 IMMEDIATE RECONSIDERATION, A PRIVATE REVIEW AGENT SHALL PROVIDE THE
3 HEALTH CARE PROVIDER THE OPPORTUNITY TO SPEAK WITH THE PHYSICIAN THAT
4 RENDERED THE DETERMINATION, BY TELEPHONE ON AN EXPEDITED BASIS, WITHIN
5 A PERIOD OF TIME NOT TO EXCEED 2 HOURS OF THE HEALTH CARE PROVIDER
6 SEEKING THE RECONSIDERATION.

7 (c) For emergency inpatient admissions, a private review agent may not
8 render an adverse decision solely because the hospital did not notify the private
9 review agent of the emergency admission within 24 hours or other prescribed period
10 of time after that admission if the patient's medical condition prevented the hospital
11 from determining:

12 (1) the patient's insurance status; and

13 (2) if applicable, the private review agent's emergency admission
14 notification requirements.

15 (d) A private review agent may not render an adverse decision as to an
16 admission of a patient during the first [24] 72 hours after admission when:

17 (1) the admission is based on a determination that the patient is in
18 imminent danger to self or others;

19 (2) the determination has been made by the patient's physician or
20 psychologist in conjunction with a member of the medical staff of the facility who has
21 privileges to make the admission; and

22 (3) the hospital immediately notifies the private review agent of:

23 (i) the admission of the patient; and

24 (ii) the reasons for the admission.

25 (e) (1) A private review agent that requires a health care provider to submit
26 a treatment plan in order for the private review agent to conduct utilization review of
27 proposed or delivered services for the treatment of a mental illness, emotional
28 disorder, or a substance abuse disorder:

29 (i) shall accept the uniform treatment plan form adopted by the
30 Commissioner under § 15-10B-03(d) of this subtitle as a properly submitted
31 treatment plan form; and

32 (ii) may not impose any requirement to:

33 1. modify the uniform treatment plan form or its content; or

34 2. submit additional treatment plan forms.

35 (2) A uniform treatment plan form submitted under the provisions of
36 this subsection:

1 (i) shall be properly completed by the health care provider; and

2 (ii) may be submitted by electronic transfer.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2006.