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By: **Delegates Morhaim, Frank, Hammen, Hubbard, Kach, Murray,  
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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 8, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Insurance - Private Review Agents - Emergency Inpatient and**  
3 **Residential Crisis Services Admission Determinations**

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

21 BY repealing and reenacting, without amendments,  
22 Article - Health - General  
23 Section 10-615 and 10-617(a)  
24 Annotated Code of Maryland

1 (2005 Replacement Volume and 2005 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article - Insurance

4 Section 15-840(a)

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2005 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Insurance

9 Section 15-10B-05(a) and 15-10B-06

10 Annotated Code of Maryland

11 (2002 Replacement Volume and 2005 Supplement)

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

14 **Article - Health - General**

15 10-615.

16 Each application for involuntary admission to a facility or Veterans'

17 Administration hospital under Part III of this subtitle shall:

18 (1) Be in writing;

19 (2) Be dated;

20 (3) Be on the form required by:

21 (i) The Administration, in the case of a facility; or

22 (ii) The Veterans' Administration hospital, in the case of a Veterans'

23 Administration hospital;

24 (4) State the relationship of the applicant to the individual for whom  
25 admission is sought;

26 (5) Be signed by the applicant;

27 (6) Be accompanied by the certificates of:

28 (i) 1 physician and 1 psychologist; or

29 (ii) 2 physicians; and

30 (7) Contain any other information that the Administration requires.

1 10-617.

2 (a) A facility or Veterans' Administration hospital may not admit the  
3 individual under Part III of this subtitle unless:

4 (1) The individual has a mental disorder;

5 (2) The individual needs inpatient care or treatment;

6 (3) The individual presents a danger to the life or safety of the individual  
7 or of others;

8 (4) The individual is unable or unwilling to be admitted voluntarily; and

9 (5) There is no available, less restrictive form of intervention that is  
10 consistent with the welfare and safety of the individual.

11 **Article - Insurance**

12 15-840.

13 (a) In this section, "residential crisis services" means intensive mental health  
14 and support services that are:

15 (1) provided to a child or an adult with a mental illness who is  
16 experiencing or is at risk of a psychiatric crisis that would impair the individual's  
17 ability to function in the community;

18 (2) designed to prevent a psychiatric inpatient admission, provide an  
19 alternative to psychiatric inpatient admission, or shorten the length of inpatient stay;

20 (3) provided out of the individual's residence on a short-term basis in a  
21 community-based residential setting; and

22 (4) provided by entities that are licensed by the Department of Health  
23 and Mental Hygiene to provide residential crisis services.

24 15-10B-05.

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

27 (1) a utilization review plan that includes:

28 (i) the specific criteria and standards to be used in conducting  
29 utilization review of proposed or delivered health care services;

30 (ii) those circumstances, if any, under which utilization review may  
31 be delegated to a hospital utilization review program; and

1 (iii) if applicable, any provisions by which patients, physicians, or  
2 hospitals may seek reconsideration;

3 (2) the type and qualifications of the personnel either employed or under  
4 contract to perform the utilization review;

5 (3) a copy of the private review agent's internal grievance process if a  
6 carrier delegates its internal grievance process to the private review agent in  
7 accordance with § 15-10A-02(1) of this title;

8 (4) the procedures and policies to ensure that a representative of the  
9 private review agent is reasonably accessible to patients and health care providers  
10 days a week, 24 hours a day in this State;

11 (5) IF APPLICABLE, THE PROCEDURES AND POLICIES TO ENSURE THAT  
12 A REPRESENTATIVE OF THE PRIVATE REVIEW AGENT IS ACCESSIBLE TO HEALTH  
13 CARE PROVIDERS TO MAKE ALL DETERMINATIONS ON WHETHER TO AUTHORIZE OR  
14 CERTIFY AN EMERGENCY INPATIENT ADMISSION, OR AN ADMISSION FOR  
15 RESIDENTIAL CRISIS SERVICES AS DEFINED IN § 15-840 OF THIS TITLE, FOR THE  
16 TREATMENT OF A MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER WITHIN 2  
17 HOURS AFTER RECEIPT OF THE INFORMATION NECESSARY TO MAKE THE  
18 DETERMINATION;

19 [(5)] (6) the policies and procedures to ensure that all applicable State  
20 and federal laws to protect the confidentiality of individual medical records are  
21 followed;

22 [(6)] (7) a copy of the materials designed to inform applicable patients  
23 and providers of the requirements of the utilization review plan;

24 [(7)] (8) a list of the third party payors for which the private review  
25 agent is performing utilization review in this State;

26 [(8)] (9) the policies and procedures to ensure that the private review  
27 agent has a formal program for the orientation and training of the personnel either  
28 employed or under contract to perform the utilization review;

29 [(9)] (10) a list of the persons involved in establishing the specific criteria  
30 and standards to be used in conducting utilization review; and

31 [(10)] (11) certification by the private review agent that the criteria and  
32 standards to be used in conducting utilization review are:

33 (i) objective;

34 (ii) clinically valid;

35 (iii) compatible with established principles of health care; and

1 (iv) flexible enough to allow deviations from norms when justified  
 2 on a case by case basis.

3 15-10B-06.

4 (a) (1) ~~{A} EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~  
 5 ~~A~~ private review agent shall:

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

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

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

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

18 (3) IF A PRIVATE REVIEW AGENT REQUIRES PRIOR AUTHORIZATION FOR  
 19 AN EMERGENCY INPATIENT ADMISSION, OR AN ADMISSION FOR RESIDENTIAL CRISIS  
 20 SERVICES AS DEFINED IN § 15-840 OF THIS TITLE, FOR THE TREATMENT OF A  
 21 MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER, A THE PRIVATE REVIEW  
 22 AGENT SHALL:

23 (I) MAKE ALL DETERMINATIONS ON WHETHER TO AUTHORIZE OR  
 24 CERTIFY AN INPATIENT ADMISSION, OR AN ADMISSION FOR RESIDENTIAL CRISIS  
 25 SERVICES AS DEFINED IN § 15-840 OF THIS TITLE, WITHIN 2 HOURS AFTER RECEIPT  
 26 OF THE INFORMATION NECESSARY TO MAKE THE DETERMINATION; AND

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

29 (b) (4) ~~{f} EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,~~  
 30 ~~IF~~ an initial determination is made by a private review agent not to authorize or  
 31 certify a health care service and the health care provider believes the determination  
 32 warrants an immediate reconsideration, a private review agent may provide the  
 33 health care provider the opportunity to speak with the physician that rendered the  
 34 determination, by telephone on an expedited basis, within a period of time not to  
 35 exceed 24 hours of the health care provider seeking the reconsideration.

36 (2) ~~IF AN INITIAL DETERMINATION IS MADE BY A PRIVATE REVIEW~~  
 37 ~~AGENT NOT TO AUTHORIZE OR CERTIFY AN EMERGENCY INPATIENT ADMISSION FOR~~  
 38 ~~THE TREATMENT OF A MENTAL, EMOTIONAL, OR SUBSTANCE ABUSE DISORDER AND~~  
 39 ~~THE HEALTH CARE PROVIDER BELIEVES THE DETERMINATION WARRANTS AN~~

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

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

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

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

14 (d) ~~A (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A~~ private review  
15 agent may not render an adverse decision as to an admission of a patient during the  
16 first ~~{24} 72~~ hours after admission when:

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

19 ~~(ii)~~ (II) 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 ~~(iii)~~ (III) the hospital immediately notifies the private review agent of:

23 ~~(i)~~ 1. the admission of the patient; and

24 ~~(ii)~~ 2. the reasons for the admission.

25 (2) A PRIVATE REVIEW AGENT MAY NOT RENDER AN ADVERSE DECISION  
26 AS TO AN ADMISSION OF A PATIENT TO A HOSPITAL FOR UP TO 72 HOURS, AS  
27 DETERMINED TO BE MEDICALLY NECESSARY BY THE PATIENT'S TREATING  
28 PHYSICIAN, WHEN:

29 (I) THE ADMISSION IS AN INVOLUNTARY ADMISSION UNDER §§  
30 10-615 AND 10-617(A) OF THE HEALTH - GENERAL ARTICLE; AND

31 (II) THE HOSPITAL IMMEDIATELY NOTIFIES THE PRIVATE REVIEW  
32 AGENT OF:

33 1. THE ADMISSION OF THE PATIENT; AND

34 2. THE REASONS FOR THE ADMISSION.

35 (e) (1) A private review agent that requires a health care provider to submit  
36 a treatment plan in order for the private review agent to conduct utilization review of

1 proposed or delivered services for the treatment of a mental illness, emotional  
2 disorder, or a substance abuse disorder:

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

6 (ii) may not impose any requirement to:

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

8 2. submit additional treatment plan forms.

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

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

12 (ii) may be submitted by electronic transfer.

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