

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1559

BY: JOHNSON (Rob) of the HOUSE

and

HOBSON of the SENATE

AS INTRODUCED

AN ACT RELATING TO INSURANCE; CREATING THE HOSPITAL AND MEDICAL SERVICES UTILIZATION REVIEW ACT; PROVIDING SHORT TITLE; DEFINING TERMS; PROHIBITING PRIVATE REVIEW AGENTS FROM CONDUCTING UTILIZATION REVIEW UNLESS CERTIFIED BY INSURANCE COMMISSIONER; ALLOWING CERTAIN WAIVER; EXEMPTING CERTAIN IN-HOUSE UTILIZATION REVIEW; PROVIDING FOR ADOPTION OF RULES, ISSUANCE OF CERTIFICATE AND ESTABLISHMENT OF REPORTING REQUIREMENTS; MAKING CERTAIN INFORMATION CONFIDENTIAL; MAKING CERTIFICATE NONTRANSFERABLE; REQUIRING CERTAIN ENTITIES PROVIDING HOSPITAL AND MEDICAL BENEFITS AND UTILIZATION REVIEW TO BE CERTIFIED OR CONTRACT WITH A CERTIFIED PRIVATE REVIEW AGENT; REQUIRING ENTITIES NOT CERTIFIED TO MAKE CERTAIN REIMBURSEMENT FOR CERTAIN DISPUTED CLAIMS; PROVIDING FOR APPLICATION, FORMS AND FEES; REQUIRING SUBMISSION OF CERTAIN INFORMATION; PROVIDING FOR EXPIRATION AND RENEWAL OF CERTIFICATE; AUTHORIZING COMMISSIONER TO REVOKE OR DENY CERTIFICATE UNDER CERTAIN CONDITIONS AND PROCEDURES AND PROVIDING FOR APPEAL; PROHIBITING DISCLOSURE OR PUBLICATION OF CERTAIN RECORDS OR

INFORMATION; STATING EFFECT OF ACT ON CERTAIN
LIABILITY; PROVIDING PENALTIES; PROVIDING FOR
CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6551 of Title 36, unless there
is created a duplication in numbering, reads as follows:

Sections 1 through 13 of this act shall constitute a part of the
Insurance Code and shall be known and may be cited as the "Hospital
and Medical Services Utilization Review Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6552 of Title 36, unless there
is created a duplication in numbering, reads as follows:

As used in the Hospital and Medical Services Utilization Review
Act:

1. "Utilization review" means a system for reviewing the
appropriate and efficient allocation of hospital resources and
medical services given or proposed to be given to a patient or group
of patients;

2. "Private review agent" means a person who is not affiliated
with a hospital or an entity that is not affiliated with a hospital,
which performs utilization review on behalf of:

- a. an employer in this state, or
- b. a third party that provides or administers hospital
and medical benefits to citizens of this state,
including, but not limited to:

- (1) a health maintenance organization issued a license pursuant to Section 2501 et seq. of Title 63 of the Oklahoma Statutes,
- (2) a health insurer, not-for-profit hospital service or medical plan, health insurance service organization, or preferred provider organization or other entity offering health insurance policies, contracts or benefits in this state, or
- (3) the State and Education Employees Group Insurance Plan;

3. "Utilization review plan" means a description of the utilization review procedures of a private review agent;

4. "Commissioner" means the Insurance Commissioner; and

5. "Certificate" means a certificate of registration granted by the Insurance Commissioner to a private review agent.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6553 of Title 36, unless there is created a duplication in numbering, reads as follows:

A private review agent who approves or denies payment or who recommends approval or denial of payment for hospital or medical services or whose review results in approval or denial of payment for hospital or medical services on a case-by-case basis shall not conduct utilization review in this state unless the Insurance Commissioner has granted the private review agent a certificate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6554 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may waive the requirements of the Hospital and Medical Services Utilization Review Act for the activities of a private review agent in connection with a contract with the federal government for utilization review of patients eligible for hospital and medical services under the Social Security Act.

B. No certificate is required for those private review agents conducting general in-house utilization review for hospitals, home health agencies, preferred provider organizations, or other managed care entities, clinics, private offices or any other health facility or entity, so long as the review does not result in the approval or denial of payment for hospital or medical services for a particular case. Such general in-house utilization review shall be exempt from all provisions of the Hospital and Medical Services Utilization Review Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6555 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner shall promulgate and adopt rules to implement the provisions of this section.

B. The Commissioner shall develop standardized forms for registration, performing and implementing certification requirements pursuant to the Hospital and Medical Services Utilization Review Act.

C. The Commissioner shall issue a certificate to an applicant that has met all the requirements of the Hospital and Medical Services Utilization Review Act and applicable rules.

D. The Commissioner may establish reporting requirements to:

1. Evaluate the effectiveness of private review agents; and
2. Determine if the utilization review programs are in compliance with the provisions of the Hospital and Medical Services Utilization Review Act and applicable rules.

E. Any information required by the Commissioner with respect to customers, patients or utilization review procedures of a private review agent shall be held in confidence and shall not be disclosed to the public.

F. A certificate issued pursuant to the Hospital and Medical Services Utilization Review Act is not transferable.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6556 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Every health insurance plan or every insurer, including, but not limited to, those entities set out in subparagraph b of paragraph 2 of Section 2 of this act, which proposes to issue or deliver in this state a health insurance policy or contract or administer a health benefits program which provides for the coverage of hospital and medical benefits and the utilization review of those benefits shall:

1. Be certified in accordance with the Hospital and Medical Services Utilization Review Act; or

2. Contract with a private review agent who is certified in accordance with the Hospital and Medical Services Utilization Review Act.

B. If a claim is made and the medical necessity of the provision of a covered benefit is disputed, a health service plan or insurer that does not meet the requirements of subsection A of this section shall pay any person or hospital entitled to reimbursement under the policy or contract.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6557 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. An applicant for a certificate shall:

1. Submit an application to an Insurance Commissioner; and

2. Pay to the Commissioner an application fee, established by the Commissioner, which shall be sufficient to pay for the administrative cost of the certification program and any other cost associated with carrying out the provisions of the Hospital and Medical Services Utilization Review Act.

B. The application shall:

1. Be on a form approved by the Commissioner and accompanied by any supporting documentation that the Commissioner requires; and
2. Be signed and verified by the applicant.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6558 of Title 36, unless there is created a duplication in numbering, reads as follows:

In conjunction with an application, the private review agent shall submit information that the Insurance Commissioner requires, including, but not limited to:

1. A utilization review plan that includes:
 - a. a description of review standards and procedures to be used in evaluating proposed or delivered hospital and medical care, and
 - b. the provisions by which patients, physicians or hospitals may seek reconsideration or appeal of adverse decisions by the private review agent;
2. The type and qualifications of the personnel either employed or under contract to perform the utilization review;
3. The procedures and policies to ensure that a representative of the private review agent is reasonably accessible to patients and providers five (5) days a week during normal business hours in this state;
4. The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;
5. The policies and procedures to verify the identity and authority of personnel performing utilization review by telephone;
6. A copy of the materials designed to inform applicable patients and providers of the requirements of the utilization review plan;
7. A list of the third party payors for which the private review agent is performing utilization review in this state; and

8. The procedures for receiving and handling complaints by patients and providers concerning utilization review.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6559 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A certificate expires on the second anniversary of its effective date unless the certificate is renewed for a two-year term as provided in this section.

B. Before the certificate expires, a certificate may be renewed for an additional two-year term, if the applicant:

1. Otherwise is entitled to the certificate;

2. Pays the Insurance Commissioner a renewal fee which shall be the same amount as the application fee provided for in Section 7 of this act; and

3. Submits to the Commissioner:

a. a renewal application on the form that the Commissioner requires, and

b. satisfactory evidence of compliance with any requirement for certificate renewal.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6560 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner may revoke or deny a certificate if the holder does not comply with performance assurances under this section, violates any provision of the Hospital and Medical Services Utilization Review Act, or violates any rule adopted pursuant thereto.

B. The Commissioner shall deny a certificate to any applicant if, upon review of the application, the Commissioner finds that the applicant proposing to conduct utilization review does not:

1. Have available the services of a sufficient number of qualified medical professionals supervised by appropriate physicians to carry out the applicant's utilization review activities;

2. Meet any applicable rules the Commissioner adopted pursuant to the Hospital and Medical Services Utilization Review Act relating to the qualifications of private review agents or the performance of utilization review; and

3. Provide assurances satisfactory to the Commissioner that:

a. the procedure and policies of the private review agent shall protect the confidentiality of medical records, and

b. the review agent shall be reasonably accessible to patients and providers for five (5) working days a week during normal business hours in this state.

C. Before denying or revoking a certificate, the Commissioner shall provide the applicant or certificate holder with reasonable time to supply additional information demonstrating compliance with the requirements of the Hospital and Medical Services Utilization Review Act and the opportunity to request a hearing. If an applicant or certificate holder requests a hearing, the Commissioner shall send a hearing notice and conduct a hearing in accordance with the Administrative Procedures Act.

D. Any person aggrieved by a final decision of the Commissioner in a contested case may appeal the decision as provided for in the Administrative Procedures Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6561 of Title 36, unless there is created a duplication in numbering, reads as follows:

A private review agent shall not disclose or publish individual medical records or any other confidential medical information obtained in the performance of utilization review activities without the appropriate procedures for protecting the patient's

confidentiality. Provided, however, that nothing in the Hospital and Medical Services Utilization Review Act shall prohibit a private review agent from providing patient information to a third party with whom the private review agent is affiliated, under contract, or for whom the agent is acting.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6562 of Title 36, unless there is created a duplication in numbering, reads as follows:

Nothing in the Hospital and Medical Services Utilization Review Act shall be deemed to reduce or expand the liability of any person or entity for any actions or activities with respect to utilization review.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6563 of Title 36, unless there is created a duplication in numbering, reads as follows:

Any person who violates the provisions of the Hospital and Medical Services Utilization Review Act or any rule adopted pursuant thereto shall be guilty of a misdemeanor and, upon conviction, shall be subject to a penalty not to exceed One Thousand Dollars (\$1,000.00). Each day a violation is continued after the first conviction is a separate offense.

SECTION 14. This act shall become effective July 1, 1991.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-6067 SD