

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND HEALTH
SUBCHAPTER 15. UTILIZATION REVIEW REGULATIONS

365:10-15-1. Purpose

The purpose of this subchapter is to set forth rules regarding utilization review regulation as authorized by the Hospital and Medical Services Utilization Review Act, 36 O.S. § 6551 et seq.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97; Amended at 19 Ok Reg 1294, eff 7-14-02]

365:10-15-2. Private review agents

(a) The following persons or entities shall be considered "private review agent(s)" for purposes of the Hospital and Medical Services Utilization Review Act, Sections 6551 through 6581 of Title 36 of the Oklahoma Statutes:

- (1) Any person or entity who performs utilization review on behalf of an employer in this state. The term "employer" means any person or entity who employs any person in this state. No person or entity who performs utilization review on behalf of an employer in this state shall be exempt from the provisions of the Hospital and Medical Services Utilization Review Act on the basis that the employer is self-insured or participates in an ERISA exempt employee welfare benefit plan or multiple employer welfare arrangement;
 - (2) Any person or entity who performs utilization review on behalf of a health maintenance organization which has been issued a license pursuant to Sections 6901 through 6936 of Title 36 of the Oklahoma Statutes. However, any such person or entity performing utilization review on behalf of a health maintenance organization so licensed shall be exempt from the provisions of the Hospital and Medical Services Utilization Review Act if, prior to performing utilization review, such person or entity has obtained written documentation from the health maintenance organization that:
 - (A) the health maintenance organization is federally regulated; and
 - (B) the health maintenance organization has filed with the Commissioner of Health a plan of utilization review which is carried out by health care professionals and which has established complaint and appellate procedures for claims;
 - (3) Any person or entity who performs utilization review on behalf a third party providing or administering hospital and medical benefits to citizens of this state, including but not limited to a health insurer, not-for-profit hospital service or medical plan, health insurance service organization, preferred provider organization or other entity offering health insurance policies, contracts or benefits in this state;
- (b) Any licensed physician or other licensed health care professional who, pursuant to contract, agreement, or through the receipt or promise of any valid consideration, is consulted during the course of utilization review by a person or entity who is licensed to perform utilization review shall not be considered a private review agent.

(c) A private review agent who provides utilization review services exclusively pursuant to a contract with the federal or state government concerning patients eligible for hospital and medical services under the Social Security Act is exempt from the certification required for private review agents in the Hospital and Medical Services Utilization Review Act.

(d) A private review agent who conducts in-house utilization review services solely for hospitals, home health agencies, preferred provider organizations, or other managed care entities, clinics, private offices or any other health facility or entity must be certified if the private review agent's review results in the approval or denial of payment for hospital and medical services on a particular case. If such private review agent's in-house utilization review is only of a general nature and does not result in the approval or denial of payment for such services on a case by case basis, no certification is required.

(e) A private review agent who conducts "outside" utilization review services for an insurance company, not-for-profit hospital service or indemnity plan, or a not-for-profit medical or indemnity plan, shall be certified in compliance with the Hospital and Medical Services Utilization Review Act.

(f) Individual employees of a certified private review agent need not be separately certified.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97; Amended at 27 Ok Reg 1531, eff 7-14-10]

365:10-15-3. Private review agent certification and renewal

(a) A private review agent shall not perform utilization review unless the Insurance Commissioner has granted the private review agent a certificate.

(b) A certificate to perform utilization review as a private agent expires on the anniversary of its effective date, unless renewed by the Insurance Commissioner. If the renewal application is received by the Oklahoma Insurance Department after 5:00 p.m. on the day of expiration it will not be accepted and the Five Hundred Dollar (\$500.00) renewal fee shall not be returned. Once a private review agent's certificate has expired, the private review agent may not perform utilization review until such time as the private review agent has applied for and received a new certificate from the Insurance Commissioner. The application for a new certificate shall require submission of the \$500.00 certification fee as well as the filing of all exhibits which are required to be filed with an original certificate application.

(c) In order to prevent its certificate from automatically expiring, a private review agent must submit the following information to the Insurance Commissioner prior to the anniversary of the certificate's effective date: a \$500.00 renewal fee; a renewal application; and satisfactory evidence of compliance with any specific requirement made by the Insurance Commissioner for renewal of such certificate.

(d) If the fees and documentation set forth in the prior paragraph are submitted to the Insurance Commissioner prior to the anniversary of the certificate's effective date, the Insurance Commissioner shall not refuse to renew the certificate without providing the certificate holder reasonable time to supply additional information demonstrating compliance with the Hospital and Medical Services Utilization Review Act and the opportunity to request a hearing.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97]

365:10-15-4. Transferability of Certificates

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

(b) If an entity which holds a certificate to perform utilization review merges with another entity, consolidates with another entity, or has a greater than 10% of its ownership purchased by another person or entity, then the certificate holder must apply for a new certificate.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97]

365:10-15-5. Use of Oklahoma physician in utilization review

(a) Every private review agent shall have an appropriate number of Oklahoma licensed physicians and/or Oklahoma licensed health care professionals who are involved in supervising the private review agent's utilization review activities. Such Oklahoma licensed physicians and Oklahoma licensed health care professionals shall actively participate in the private review agent's appeal process and complaint process.

(b) The term "appropriate number", as used in the preceding paragraph, shall mean a reasonable amount of Oklahoma licensed physicians and/or Oklahoma licensed health care professionals to adequately supervise the private review agent's utilization review activities, depending upon the utilization review activities undertaken by the private review agent, but shall in no event be construed to be less than one Oklahoma licensed physician or Oklahoma licensed health care professional.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97]

365:10-15-6. Third party payors

A private review agent shall disclose all persons or entities for whom the private review agent is performing utilization review to the Insurance Department. Disclosure shall include the name of the third party, the business address of the third party, the telephone number of the third party, and a reference contact of the third party. By providing a reference contact of the third party, the private review agent authorizes the Insurance Commissioner to discuss the nature of the private review agent's utilization review services with such reference contact.

[Source: Added at 14 Ok Reg 2957, eff 7-14-97]

365:10-15-7. In-house utilization review by insurance companies

(a) Insurance Companies, not-for-profit hospital service or indemnity plans, and not-for-profit medical or indemnity plans which hold certificates of authority from the State of Oklahoma and which perform in-house utilization review shall be registered pursuant to subsection B.

(b) Registration shall consist of completing the Insurance Commissioner's Utilization Review Certification and/or Registration Application Form and forwarding the same with

all other information required by Okla. Stat. tit. 36, § 6559 to the Insurance Commissioner for approval.

(c) A \$500.00 fee shall accompany the Utilization Review Certification and/or Registration Application Form.

(d) Registration is complete upon approval by the Insurance Commissioner.

(e) Insurance Companies, not-for-profit hospital service or indemnity plans, and not-for-profit medical or indemnity plans registered to perform in-house utilization review shall complete the Insurance Commissioner's Utilization Review Certification and/or Registration Annual Renewal Application each year and forward the same with all information requested therein to the Insurance Commissioner prior to or on the anniversary date. A \$500 renewal fee shall accompany the Annual Renewal Application.

[**Source:** Added at 14 Ok Reg 2957, eff 7-14-97]