

By: Naishtat

H.B. No. 1491

A BILL TO BE ENTITLED

AN ACT

1
2 relating to utilization review and independent review of certain
3 health care services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2(20), Article 21.58A, Insurance Code,
6 is amended to read as follows:

7 (20) "Utilization review" means a system for
8 prospective, ~~[or]~~ concurrent, or retrospective review of the
9 medical necessity and appropriateness of health care services being
10 provided, ~~[or]~~ proposed to be provided, or provided to an
11 individual within this state. Utilization review shall not include
12 elective requests for clarification of coverage.

13 SECTION 2. Section 11, Article 21.58A, Insurance Code, is
14 amended to read as follows:

15 Sec. 11. RETROSPECTIVE UTILIZATION REVIEW [~~CLAIMS REVIEWS~~]
16 OF MEDICAL NECESSITY. [~~(a) When a retrospective review of the~~
17 ~~medical necessity and appropriateness of health care service is~~
18 ~~made under a health insurance policy or plan: (1) such~~
19 ~~retrospective review shall be based on written screening criteria~~
20 ~~established and periodically updated with appropriate involvement~~
21 ~~from physicians, including practicing physicians, and other health~~
22 ~~care providers; and (2) the payor's system for such retrospective~~
23 ~~review of medical necessity and appropriateness shall be under the~~
24 ~~direction of a physician.~~

1 ~~[(b)]~~ When an adverse determination is made under a health
2 insurance policy or plan based on a retrospective utilization
3 review of the medical necessity and appropriateness of the
4 allocation of health care resources and services, the payor shall
5 afford the health care providers the opportunity to appeal the
6 determination in the same manner afforded the enrollee, with the
7 enrollee's consent to act on his or her behalf, but in no event
8 shall health care providers be precluded from appeal if the
9 enrollee is not reasonably available or competent to consent. Such
10 appeal shall not be construed to imply or confer on such health care
11 providers any contract rights with respect to the enrollee's health
12 insurance policy or plan that the health care provider does not
13 otherwise have.

14 SECTION 3. Section 14(c), Article 21.58A, Insurance Code,
15 is amended to read as follows:

16 (c) Except as otherwise provided by this subsection, this
17 article applies to utilization review of health care services
18 provided to persons eligible for workers' compensation medical
19 benefits under Title 5, Labor Code. The commissioner shall
20 regulate in the manner provided by this article a person who
21 performs review of a medical benefit provided under Chapter 408,
22 Labor Code. To the extent this article applies to retrospective
23 utilization review, it does not apply to medical dispute resolution
24 under Section 413.031, Labor Code. This subsection does not affect
25 the authority of the Texas Workers' Compensation Commission to
26 exercise the powers granted to that commission under Title 5, Labor
27 Code. In the event of a conflict between this article and Title 5,

1 Labor Code, Title 5, Labor Code, prevails. The commissioner and the
2 Texas Workers' Compensation Commission may adopt rules and enter
3 into memoranda of understanding as necessary to implement this
4 subsection.

5 SECTION 4. Section 2(c), Article 21.58C, Insurance Code, is
6 amended to read as follows:

7 (c) The standards adopted under Subsection (a)(1) of this
8 section must include standards that require each independent review
9 organization to make its determination:

10 (1) not later than the earlier of:

11 (A) the 15th day after the date the independent
12 review organization receives the information necessary to make the
13 determination; or

14 (B) the 20th day after the date the independent
15 review organization receives the request that the determination be
16 made; ~~and~~

17 (2) in the case of a life-threatening condition, not
18 later than the earlier of:

19 (A) the fifth day after the date the independent
20 review organization receives the information necessary to make the
21 determination; or

22 (B) the eighth day after the date the independent
23 review organization receives the request that the determination be
24 made; and

25 (3) in the case of a retrospective review of health
26 care services that have been provided, not later than the earlier
27 of:

1 (A) the 25th day after the date the independent
2 review organization receives the information necessary to make the
3 determination; or

4 (B) the 30th day after the date the independent
5 review organization receives the request that the determination be
6 made.

7 SECTION 5. This Act takes effect September 1, 2003, and
8 applies only to a utilization review or independent review under
9 Article 21.58A or Article 21.58C, Insurance Code, as applicable,
10 that begins on or after January 1, 2004. A utilization review or
11 independent review that begins before January 1, 2004, is governed
12 by the law as it existed immediately before the effective date of
13 this Act and that law is continued in effect for this purpose.