

AN ACT

relating to utilization review and notice and appeal of certain adverse determinations by utilization review agents.

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

SECTION 1. Section 4201.053, Insurance Code, is amended to read as follows:

Sec. 4201.053. MEDICAID AND ~~CERTAIN~~ OTHER STATE HEALTH OR MENTAL HEALTH PROGRAMS. (a) Except as provided by Section 4201.057, this chapter does not apply to:

- (1) the state Medicaid program;
- (2) the services program for children with special health care needs under Chapter 35, Health and Safety Code;
- (3) a program administered under Title 2, Human Resources Code;
- (4) a program of the Department of State Health Services relating to mental health services;
- (5) a program of the Department of Aging and Disability Services relating to intellectual disability [~~mental retardation~~] services; or
- (6) a program of the Texas Department of Criminal Justice.

(b) Sections 4201.303(c), 4201.304(b), 4201.357(a-1), and 4201.3601 do not apply to:

- (1) the child health program under Chapter 62, Health

1 and Safety Code, or the health benefits plan for children under
2 Chapter 63, Health and Safety Code;

3 (2) the Employees Retirement System of Texas or
4 another entity issuing or administering a coverage plan under
5 Chapter 1551;

6 (3) the Teacher Retirement System of Texas or another
7 entity issuing or administering a plan under Chapter 1575 or 1579;

8 (4) The Texas A&M University System or The University
9 of Texas System or another entity issuing or administering coverage
10 under Chapter 1601; and

11 (5) a managed care organization providing a Medicaid
12 managed care plan under Chapter 533, Government Code.

13 SECTION 2. Section 4201.054, Insurance Code, is amended by
14 adding Subsection (b) to read as follows:

15 (b) Sections 4201.303(c), 4201.304(b), 4201.357(a-1), and
16 4201.3601 do not apply to utilization review of a health care
17 service provided to a person eligible for workers' compensation
18 benefits under Title 5, Labor Code.

19 SECTION 3. Section 4201.303, Insurance Code, is amended by
20 adding Subsection (c) to read as follows:

21 (c) For an enrollee who is denied the provision of
22 prescription drugs or intravenous infusions for which the patient
23 is receiving benefits under the health insurance policy, the notice
24 required by Subsection (a)(4) must include a description of the
25 enrollee's right to an immediate review by an independent review
26 organization and of the procedures to obtain that review.

27 SECTION 4. Section 4201.304, Insurance Code, is amended to

1 read as follows:

2 Sec. 4201.304. TIME FOR NOTICE OF ADVERSE DETERMINATION.

3 (a) Subject to Subsection (b), a [A] utilization review agent shall
4 provide notice of an adverse determination required by this
5 subchapter as follows:

6 (1) with respect to a patient who is hospitalized at
7 the time of the adverse determination, within one working day by
8 either telephone or electronic transmission to the provider of
9 record, followed by a letter within three working days notifying
10 the patient and the provider of record of the adverse
11 determination;

12 (2) with respect to a patient who is not hospitalized
13 at the time of the adverse determination, within three working days
14 in writing to the provider of record and the patient; or

15 (3) within the time appropriate to the circumstances
16 relating to the delivery of the services to the patient and to the
17 patient's condition, provided that when denying poststabilization
18 care subsequent to emergency treatment as requested by a treating
19 physician or other health care provider, the agent shall provide
20 the notice to the treating physician or other health care provider
21 not later than one hour after the time of the request.

22 (b) A utilization review agent shall provide notice of an
23 adverse determination for a concurrent review of the provision of
24 prescription drugs or intravenous infusions for which the patient
25 is receiving health benefits under the health insurance policy not
26 later than the 30th day before the date on which the provision of
27 prescription drugs or intravenous infusions will be discontinued.

1 SECTION 5. The heading to Section 4201.357, Insurance Code,
2 is amended to read as follows:

3 Sec. 4201.357. EXPEDITED APPEAL FOR DENIAL OF EMERGENCY
4 CARE, ~~[OR]~~ CONTINUED HOSPITALIZATION, PRESCRIPTION DRUGS OR
5 INTRAVENOUS INFUSIONS.

6 SECTION 6. Section 4201.357, Insurance Code, is amended by
7 adding Subsection (a-1) to read as follows:

8 (a-1) The procedures for appealing an adverse determination
9 must include, in addition to the written appeal and the appeal
10 described by Subsection (a), a procedure for an expedited appeal of
11 a denial of prescription drugs or intravenous infusions for which
12 the patient is receiving benefits under the health insurance
13 policy. That procedure must include a review by a health care
14 provider who:

- 15 (1) has not previously reviewed the case; and
16 (2) is of the same or a similar specialty as the health
17 care provider who would typically manage the medical or dental
18 condition, procedure, or treatment under review in the appeal.

19 SECTION 7. Subchapter H, Chapter 4201, Insurance Code, is
20 amended by adding Section 4201.3601 to read as follows:

21 Sec. 4201.3601. IMMEDIATE APPEAL TO INDEPENDENT REVIEW
22 ORGANIZATION FOR DENIAL OF PRESCRIPTION DRUGS OR INTRAVENOUS
23 INFUSIONS. Notwithstanding any other law, in a circumstance
24 involving the provision of prescription drugs or intravenous
25 infusions for which the patient is receiving benefits under the
26 health insurance policy, the enrollee is:

- 27 (1) entitled to an immediate appeal to an independent

1 review organization as provided by Subchapter I; and
2 (2) not required to comply with procedures for an
3 internal review of the utilization review agent's adverse
4 determination.

5 SECTION 8. Section 4202.003, Insurance Code, is amended to
6 read as follows:

7 Sec. 4202.003. REQUIREMENTS REGARDING TIMELINESS OF
8 DETERMINATION. The standards adopted under Section 4202.002 must
9 require each independent review organization to make the
10 organization's determination:

11 (1) for a life-threatening condition as defined by
12 Section 4201.002 or the provision of prescription drugs or
13 intravenous infusions for which the patient is receiving benefits
14 under the health insurance policy, not later than the earlier of the
15 third day after the date the organization receives the information
16 necessary to make the determination or, with respect to:

17 (A) a review of a health care service provided to
18 a person with a life-threatening condition eligible for workers'
19 compensation medical benefits, the eighth day after the date the
20 organization receives the request that the determination be made;
21 or

22 (B) a review of a health care service other than a
23 service described by Paragraph (A), the third day after the date the
24 organization receives the request that the determination be made;
25 or

26 (2) for a situation [~~condition~~] other than a situation
27 described by Subdivision (1) [~~life-threatening condition~~], not

1 later than the earlier of:

2 (A) the 15th day after the date the organization
3 receives the information necessary to make the determination; or

4 (B) the 20th day after the date the organization
5 receives the request that the determination be made.

6 SECTION 9. This Act applies only to an adverse
7 determination made in relation to coverage or benefits under a
8 health insurance policy or health benefit plan delivered, issued
9 for delivery, or renewed on or after January 1, 2016. An adverse
10 determination made in relation to coverage or benefits under a
11 policy or plan delivered, issued for delivery, or renewed before
12 January 1, 2016, is governed by the law as it existed immediately
13 before the effective date of this Act, and that law is continued in
14 effect for that purpose.

15 SECTION 10. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I certify that H.B. No. 1621 was passed by the House on May 5, 2015, by the following vote: Yeas 140, Nays 5, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1621 on May 29, 2015, by the following vote: Yeas 142, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1621 was passed by the Senate, with amendments, on May 27, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor