

SENATE BILL NO. 438

INTRODUCED BY C. CHRISTIAENS, GILLAN, HALLIGAN, R. HOLDEN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING STANDARDS FOR PROPERTY AND CASUALTY INSURERS SEEKING UTILIZATION REVIEW OPINIONS RELATING TO COVERAGE FOR MEDICAL EXPENSES OR BODILY INJURY; CREATING STANDARDS FOR UTILIZATION REVIEW ORGANIZATIONS PROVIDING UTILIZATION REVIEW SERVICES; PROVIDING DEFINITIONS; AND PROVIDING RULEMAKING AUTHORITY; ~~AND PROVIDING THAT VIOLATIONS OF THE UTILIZATION REVIEW STANDARDS ARE UNFAIR PRACTICES.~~"

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

NEW SECTION. **Section 1. Purpose.** The legislature recognizes that property and casualty insurers providing coverage for medical expenses or liability coverage for bodily injury may need, with respect to some claims, to seek medical reviews from qualified utilization review organizations so that an insurer may use the reviews to determine its contractual obligations. [Sections 1 through 6 5] establish standards for organizations providing utilization reviews and for property and casualty insurers seeking reviews.

NEW SECTION. **Section 2. Scope -- rulemaking.** (1) [Sections 1 through 6 5] apply to property and casualty insurers seeking utilization review opinions and to utilization review organizations that provide opinions with respect to property and casualty insurance contracts issued in this state.

(2) The commissioner may adopt rules to implement the provisions of [sections 1 through 6 5], including but not limited to registration procedures and medical privacy requirements.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 6 5], the following definitions apply:

(1) "Utilization review" means ~~a review of the health care services provided to an individual to assist in the determination of the nature of the injury or condition, the appropriateness of treatment provided, and the cause of the injury or condition~~ THE SAME AS PROVIDED IN 33-32-102(4).

(2) "Utilization review organization" means an entity that provides utilization review services.

NEW SECTION. Section 4. Standards for utilization review organizations. (1) A utilization review organization that conducts utilization reviews in this state for property and casualty insurers shall register with the commissioner prior to performing utilization reviews. THE COMMISSIONER SHALL PLACE A UTILIZATION REVIEW ORGANIZATION ON THE REGISTER WHEN THE UTILIZATION REVIEW ORGANIZATION PROVIDES INFORMATION THAT ESTABLISHES THAT THE UTILIZATION REVIEW ORGANIZATION MEETS THE STANDARDS SET FORTH IN THIS SECTION. THE COMMISSIONER SHALL REMOVE FROM THE REGISTER A UTILIZATION REVIEW ORGANIZATION THAT FAILS TO MEET THE STANDARDS SET FORTH IN THIS SECTION.

(2) Utilization review organizations may use only licensed or certified health care professionals to conduct utilization reviews.

(3) Utilization reviews must be conducted by health care professionals who are licensed or certified in the same specialty as the provider whose treatment is being received by the insured or by a health care professional who is qualified to render the treatment being reviewed.

(4) Utilization review organizations shall comply with all applicable state or federal medical privacy laws.

(5) Utilization review evaluations must use generally accepted standards for treatment of the illness, injury, or condition that is being reviewed.

(6) Utilization review opinions must be signed by the health care professional performing the review.

(7) A utilization review organization may not base its fees or charges on any recommendation for a reduction in payment under an insurance contract or on a percentage of claim savings.

NEW SECTION. Section 5. Standards for property and casualty insurers. (1) Property or casualty insurers seeking utilization reviews with respect to insurance contracts issued in this state may use only utilization review organizations that are registered under [section 4].

(2) A property or casualty insurer that denies, in whole or in part, a policyholder's claim after consideration of a utilization review shall provide the policyholder an opportunity to request reconsideration by the insurer and the opportunity to submit additional information relating to the claim.

~~NEW SECTION. Section 6. Violations. (1) A violation of [sections 1 through 6], if committed with such frequency as to indicate a general business practice, must be considered an unfair claim settlement practice and a violation of 33-18-201.~~

~~(2) The provisions of [sections 1 through 6] are not intended to create or abrogate any cause of action that results from a violation of the standards established under [sections 1 through 6].~~

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through ~~6~~ 5] are intended to be codified as an integral part of Title 33, and the provisions of Title 33 apply to [sections 1 through ~~6~~ 5].

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