



AMENDMENT TO THE  
RULES AND REGULATIONS OF THE  
OFFICE OF COMMISSIONER OF INSURANCE

The Rules and Regulations of the Office of Commissioner of Insurance are hereby amended by adopting a new Chapter 120-2-58 entitled "Certification of Private Review Agents" to read as follows:

Chapter 120-2-58

CERTIFICATION OF PRIVATE REVIEW AGENTS

Section

- 120-2-58-.01 Purpose
- 120-2-58-.02 Definitions
- 120-2-58-.03 Application and Renewal Filing Requirements
- 120-2-58-.04 Refusal, Suspension and Revocation
- 120-2-58-.05 Requirements for Utilization Review
- 120-2-58-.06 Complaint Procedure
- 120-2-58-.07 Reporting Requirements
- 120-2-58-.08 Penalties
- 120-2-58-.09 Severability Provision

**§ 120-2-58-.01 Purpose.** The purpose of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance is to promote the delivery of quality health care by cost-effective means, efficient communication, protection of parties involved, accessible treatment done in a timely and effective manner, maintaining confidentiality of information, and to provide minimum standards for private review agents.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-1 and 33-46-11.

**§ 120-2-58-.02 Definitions.**

(1)"Adverse Determination" means a determination by a private review agent not to certify a hospital or surgical facility admission, extension of a hospital stay or other health care service or procedure based on medical necessity or appropriateness.

(2)"Appeal" means a formal request, either orally, or in writing or by electronic transmission, to a private review agent to reconsider a determination not to certify an admission, extension of stay, or other health care service or procedure.

(3) "Complaint" is a communication either orally, in writing or by electronic transmission concerning matters related to utilization review including, but not limited to, health care services, denials, accessibility, and confidentiality.

(4)"Concurrent Review" means utilization review conducted during a patient's hospital stay or course of treatment.

(5) "Reconsideration" means a request either orally, in writing or by electronic transmission to the private review agent to reconsider an adverse determination.

(6) "Review Criteria" means the written policies, decisions, rules, medical protocols or guidelines used by the private review agent to determine medical necessity or appropriateness.

(7) "Utilization Review Determination" means a recommendation by a private review agent regarding medical necessity or appropriateness of the health care services given or proposed to be given to a patient.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-1 and 33-46-11.

**§ 120-2-58-.03 Application and Renewal Filing Requirements.**

(1) Applications for certification shall be submitted to the Office of Commissioner of Insurance on Forms GID-57, GID-65(UR) and GID-72, attached hereto and incorporated herein, along with the original license or certificate fee and application fee required for private review agents under O.C.G.A. § 33-8-1.

(2) Private review agents operating in Georgia prior to the effective date of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and which have not applied for certification within sixty (60) days of such effective date shall be in violation of Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and are prohibited from operating as a private review agent until such private review agent has applied for certification and has been certified.

(3) Any private review agent not operating in Georgia on the effective date of this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance may apply for certification at any time prior to doing business in Georgia.

(4) A certificate shall expire on the second anniversary of its effective date unless renewed, suspended or revoked. Renewal for an additional two (2) year term may be applied for no sooner than ninety (90) days prior to the certification expiration date. Application for renewal shall be submitted on Forms GID-57, GID-65(UR) and GID-72 with the renewal license or certificate fee required for private review agents under O.C.G.A. § 33-8-1.

(5) On initial application for certification, all advertising materials to be used in Georgia by private review agents shall be filed with the Office of Commissioner of Insurance.

(6) Each application for certification or renewal must include the following:

(a) A utilization review plan;

(b) Documentation that the private review agent has received full accreditation by the Utilization Review Accreditation Commission or the National Committee for Quality Assurance (NCQA). Reason or reasons should be stated if the organization is not presently fully accredited or certified by URAC or NCQA;

(c) The type, qualifications and number of the personnel, either employed or under contract, to perform the utilization review;

(d) A copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan;

(e) A written description of an ongoing quality assessment program;

(f) The written policies and procedures to ensure that an appropriate representative of the private review agent is reasonably accessible to patients and health care providers five (5) days a week during normal business hours in this State;

(g) The written policies and procedures to ensure that information obtained in the course of utilization review is maintained in a confidential manner. Such policies and procedures shall include, but not be limited to, the following:

1. Assurances that information obtained during the process of utilization review will be kept confidential in accordance with any applicable state or federal laws and regulations;

2. Assurances that the information collected for purposes of utilization review will be limited to the information necessary for the claims administrator to adjudicate the claim and used solely for the purposes of utilization review, quality management, discharge planning and case management;

3. Assurances that information obtained for purposes of utilization review will be shared with only those agents (such as the claims administrator) who have authority to receive such information;

4. Guidelines to prevent unauthorized release of individual enrollee information to the public. Information pertaining to the diagnosis, treatment or health of an enrollee shall be disclosed only to authorized persons. Release of information otherwise shall only be permitted with the express written consent of the covered enrollee, or pursuant to court order for the production of evidence or discovery, or as otherwise provided by state or federal law.

(h) The written policies and procedures establishing and maintaining a complaint system; and

(i) A sample John Doe copy of each type of contract or agreement to be executed between the private review agent and payor, employer, claim administrator, or other

entity with certification that the private review agent shall not enter into any incentive payment provision contained in a contract or agreement with a payor which is based on reduction of services or the charges thereof, reduction of length of stay, or utilization of alternative treatment settings to reduce amounts of necessary and appropriate medical care.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-1, 33-46-3, 33-46-4, 33-46-5, 33-46-6, and 33-46-11.

**§ 120-2-58-.04 Refusal, Suspension and Revocation.** The Office of Commissioner of Insurance may refuse to issue or renew and may suspend or revoke a certificate if a private review agent:

(a) Violates any provision or otherwise fails to comply with any provision of Chapter 46 of Title 33 of the Official Code of Georgia Annotated or this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance;

(b) Has intentionally misrepresented or concealed any material fact in any application for certification or on any form filed with the Commissioner of Insurance;

(c) Has obtained or attempted to obtain the certification by misrepresentation, concealment, or other fraud or uses a certification without proper authority; or

(d) Has failed to produce records in response to a written request by the Office of Commissioner of Insurance sent to the last known address of the private review agent.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-3, 33-46-5, 33-46-6, 33-46-7 and 33-46-11.

**§ 120-2-58-.05 Requirements for Utilization Review.**

(1) Private review agents shall have sufficient staff to facilitate review in accordance with review criteria and shall designate one or more individuals able to effectively communicate medical and clinical information.

(2) A private review agent shall provide access to its review staff by a toll free or collect call telephone line during normal business hours. A private review agent shall have an established procedure to review timely call backs from health care providers and shall establish written procedures for receiving after-hour calls, either in person or by recording.

(3) Private review agents shall collect only the information necessary to certify the admission, procedure or treatment, length of stay, frequency and duration of services. All requests for information shall be made during normal business hours.

(4) Private review agents shall identify themselves prior to collecting necessary information.

(5) Private review agents shall establish and follow procedures and rules for on-site medical facility review.

(6) In the event a private review agent questions the medical necessity or appropriateness of care, the following procedures will apply:

(a) The attending health care provider shall have the opportunity to discuss a utilization review determination promptly by telephone with an identified health care provider representing the private review agent and trained in a related medical specialty. If the determination is made not to certify, an adverse determination exists.

(b) Reconsideration of an adverse determination occurs when any questions concerning medical necessity or appropriateness of care are not resolved under subparagraph (a) above. The right to appeal an adverse determination shall be available to the enrollee and the attending physician or other ordering health care provider. The enrollee or enrollee's representative shall be allowed a second review by another identified health care provider in an appropriate medical specialty who represents the private review agent.

(7) The private review agent shall have written procedures for providing notification of its determinations regarding all forms of certification in accordance with the following:

(a) When an initial determination is made to certify, notification shall be provided promptly either by telephone, in writing or electronic transmission to the attending health care provider, the facility rendering service as well as to the enrollee. Written notification shall be transmitted within two (2) business days of the determination.

(b) When a determination is made not to certify, the attending physician and/or other ordering health care provider or facility rendering service shall:

1. Be notified by telephone within one (1) business day.

2. Be sent a written notification within one (1) business day, which also shall be sent to the enrollee. The written notification shall include: principal reason(s) for the determination and instructions for initiating an appeal of the adverse determination.

(c) The private review agent shall establish procedures for appeals to be made in writing and by telephone. The private review agent shall notify the health care provider and enrollee in writing of its determination on the appeal as soon as possible, but in no case later than sixty (60) days after receiving the required documentation to conduct the appeal.

(d) The appeals procedure does not preclude the right of an enrollee to pursue legal action.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-1, 33-46-4 and 33-46-11.

**§ 120-2-58-.06 Complaint Procedure.** Private review agents shall establish and maintain a

complaint system which includes, at a minimum, the following:

(a) All complaints shall be directed to the private review agent; and

(b) The private review agent shall contact the complainant, gather all pertinent facts regarding the complaint, and attempt to resolve the complaint as soon as reasonably possible within the context of written policies and procedures.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-1, 33-46-4, 33-46-6 and 33-46-11.

**§ 120-2-58-.07 Reporting Requirements.**

(1) By March 1, 1997, and annually thereafter on or before the same date, each private review agent shall submit to the Office of Commissioner of Insurance a list of all complaints by type and disposition, and an analysis of such complaints filed against them during the past calendar year.

(2) By March 1, 1997, and annually thereafter on or before the same date, the annual report information regarding utilization review activities for the preceding calendar year shall be submitted to the Office of Commissioner of Insurance on Form GID-73 which is attached hereto and incorporated herein.

(3) The Commissioner of Insurance shall require any other reporting requirements that are necessary to fully evaluate utilization review compliance with Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance and the impact of utilization review programs on patient access to care.

(4) Each private review agent shall notify the Office of Commissioner of Insurance in writing within sixty (60) days of any changes to information last filed with the Office of Commissioner of Insurance under Form GID-57.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-10, 33-46-11 and 33-46-14.

**§ 120-2-58-.08 Penalties.** Any certified private review agent which violates or fails to comply with any provision of Chapter 46 of Title 33 of the Official Code of Georgia Annotated and this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its certification or right to do business in this state.

Authority. - O.C.G.A. §§ 33-2-9, 33-46-7 and 33-46-11.

**§ 120-2-58-.09 Severability Provision.** If any rule or portion of a rule in this Chapter of the Rules and Regulations of the Office of Commissioner of Insurance or the applicability thereof to any particular person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the rules or the applicability of such provisions to other persons or circumstances shall not be

affected thereby.

Authority. - O.C.G.A. §§ 33-2-9 and 33-46-11.