

CHAPTER 143

INSURANCE

SENATE BILL 93-21

BY SENATOR Tebedo;
also REPRESENTATIVE Dyer.

AN ACT

CONCERNING THE RESPONSIBILITY OF HEALTH CARE COVERAGE ENTITIES FOR THE ACTIVITIES OF PRIVATE UTILIZATION REVIEW ORGANIZATIONS ACTING ON BEHALF OF SUCH HEALTH CARE COVERAGE ENTITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 4 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10-4-115. Private utilization review. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PRIVATE UTILIZATION REVIEW ORGANIZATION" MEANS AN ENTITY, OTHER THAN A HOSPITAL OR PUBLIC REVIEWER FOLLOWING FEDERAL GUIDELINES, WHICH CONDUCTS UTILIZATION REVIEW.

(b) "UTILIZATION REVIEW" MEANS AN EVALUATION OF THE NECESSITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF HEALTH CARE SERVICES, PROCEDURES, AND FACILITIES, BUT DOES NOT INCLUDE ANY INDEPENDENT MEDICAL EXAMINATION PROVIDED FOR IN ANY POLICY OF INSURANCE.

(2) AN INSURANCE CARRIER REGULATED PURSUANT TO THE PROVISIONS OF THIS ARTICLE MAY CONTRACT WITH ANY PRIVATE UTILIZATION REVIEW ORGANIZATION AND RECEIVE FROM THAT PRIVATE UTILIZATION REVIEW ORGANIZATION A UTILIZATION REVIEW OPINION. IF THE INSURANCE CARRIER RELIES ON THE OPINION OF THE PRIVATE UTILIZATION REVIEW ORGANIZATION RESULTING IN A DECISION TO NOT PAY BENEFITS WHICH AN APPROPRIATE FACT FINDER LATER DETERMINES WERE DUE AND OWING, THEN THE INSURANCE CARRIER SHALL BE RESPONSIBLE TO PAY THE PAST DUE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BENEFITS IN ADDITION TO INTEREST AND COSTS, AND ATTORNEY FEES, AS MAY BE REQUIRED BY SECTION 10-4-708 (1.7). NOTHING IN THIS SUBSECTION (2) SHALL BE CONSTRUED TO AFFECT OR LIMIT THE COMMISSIONER'S POWER TO REGULATE UNDER THE PROVISIONS OF SECTION 10-3-1104 (1) (h), NOR SHALL ANYTHING IN THIS SUBSECTION (2) LIMIT OR AFFECT THE INSURED REMEDIES UNDER THE "COLORADO AUTO ACCIDENT REPARATIONS ACT", PART 7 OF THIS ARTICLE, OR ANY COMMON LAW REMEDY.

SECTION 2. Part 1 of article 16 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

10-16-112. Private utilization review - health care coverage entity responsibility. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PRIVATE UTILIZATION REVIEW ORGANIZATION" MEANS AN ENTITY, OTHER THAN A HOSPITAL OR PUBLIC REVIEWER FOLLOWING FEDERAL GUIDELINES, WHICH CONDUCTS UTILIZATION REVIEW. THIS DEFINITION SHALL NOT APPLY TO ANY INDEPENDENT MEDICAL EXAMINATION PROVIDED FOR IN ANY POLICY OF INSURANCE.

(b) "UTILIZATION REVIEW" MEANS AN EVALUATION OF THE NECESSITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF HEALTH CARE SERVICES, PROCEDURES, AND FACILITIES, BUT DOES NOT INCLUDE ANY INDEPENDENT MEDICAL EXAMINATION PROVIDED FOR IN ANY POLICY OF INSURANCE.

(2) ANY PRIVATE UTILIZATION REVIEW ORGANIZATION PROVIDING SERVICES TO AN INSURANCE CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE SERVICE CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION REGULATED PURSUANT TO THE PROVISIONS OF THIS ARTICLE IS THE DIRECT REPRESENTATIVE OF THE INSURANCE CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE SERVICE CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION. ANY INSURANCE CARRIER, NONPROFIT HOSPITAL AND HEALTH CARE SERVICE CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION IS RESPONSIBLE FOR THE ACTIONS OF ANY PRIVATE UTILIZATION REVIEW ORGANIZATION ACTING WITHIN THE SCOPE OF ANY CONTRACT AND ON ITS BEHALF WITHIN THE SCOPE OF ANY CONTRACT WHICH RESULT IN ANY VIOLATION OF THIS TITLE OR ANY RULES OR REGULATIONS PROMULGATED BY THE COMMISSIONER.

SECTION 3. Safety clause. The general assembly hereby yinds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 26, 1993