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Utilization Review

Sec. 38a-226c-1. Applicability and scope

Except as otherwise specifically provided, sections 38a-226c-1 to 38a-226c-10, inclusive, of the regulations of Connecticut State Agencies shall apply to all utilization review companies that provide or perform utilization review services in this state on or after the effective date of said sections.

(Adopted effective September 1, 1999)

Sec. 38a-226c-2. Definitions

As used in sections 38a-226c-1 to 38a-226c-10, inclusive, of the Regulations of Connecticut State Agencies:

(a) "Adverse determination" means a determination by a utilization review company not to certify an admission, service, procedure or extension of stay because, based upon the information provided, the request does not meet the utilization review company's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness;

(b) "Business day" means a day during which the state government of Connecticut conducts regular business;

(c) "Commissioner" means the Insurance Commissioner;

(d) "Enrollee" means "enrollee" as defined in section 38a-226 of the Connecticut General Statutes. For purposes of pursuing an appeal only, the term "enrollee" shall include any person the enrollee has designated as his or her legal representative;

(e) "Managed care organization" means "managed care organization" as defined in section 38a-478 of the Connecticut General Statutes;

(f) "New information" means information that has not been previously made available to a utilization review company or a managed care organization for consideration when determining whether to certify an admission, service, procedure or extension of stay;

(g) "Patient medical records" means all information, including personally identifiable information, that relates to an individual's health care history, diagnosis, condition, treatment or evaluation that is obtained from any source;

(h) "Personally identifiable information" means any data that identifies a particular patient. Personally identifiable information includes an individual's name, address and social security number;

(i) "Provider of record" or "Provider" means "provider of record" or "provider" as defined in section 38a-226 of the Connecticut General Statutes or a provider providing treatment or care to the enrollee and acting on behalf of an enrollee, with the enrollee's written consent;

(j) "Utilization review" means "utilization review" as defined in section 38a-226 of the Connecticut General Statutes;

(k) "Utilization review company" means "utilization review company" as defined in section 38a-226 of the Connecticut General Statutes.

(Adopted effective September 1, 1999; amended August 30, 2004)

Sec. 38a-226c-3. Statistical reporting to the commissioner

(a) Each utilization review company shall file annually with the commissioner, on or before February 15, for the previous calendar year, the following statistical information with respect to utilization review activities conducted within this state:

(1) The aggregate total of certifications performed;

(2) The aggregate total of adverse determinations rendered;

(3) The aggregate total of appeals of adverse determinations requested; and

(4) The aggregate total of appeals of adverse determinations requested, ultimately resulting in a reversal of the initial adverse determination.

(b) Each utilization review company shall report the information indicated in a format as specified by the commissioner and shall maintain source records adequate to support the accuracy of the information filed.

(c) The information required in subsection (a) of this section shall also be provided on an aggregate basis with respect to utilization review activities conducted nationwide.

(Adopted effective September 1, 1999)

Sec. 38a-226c-4. Standards

(a) Pursuant to sections 38a-226c(a)(1)(E) and 38a-226c(a)(2) of the Connecticut General Statutes, each utilization review company shall maintain, and provide with each notice of a determination not to certify an admission, service, procedure or extension of stay, and make available upon request, a written description of the appeal procedure by which either the enrollee or the provider of record acting on behalf of the enrollee with the enrollee's written consent, may seek review of adverse determinations regarding certification of an admission, service, procedure or extension of stay. The procedures and written description for appeals shall include the following:

(1) A reasonable period within which an appeal must be filed to be considered by the utilization review company,

(2) Except as provided in subsection (e) of this section, each utilization review company shall make review staff available by toll-free telephone, at least forty (40) hours per week during normal business hours. The utilization review company shall maintain records of duty rosters or other written documentation evidencing the required level of staffing, and

(3) Notification, in bold print, that an appeal of a determination not to certify an admission, service, procedure or extension of stay to the commissioner pursuant to section 38a-478n of the Connecticut General Statutes, must be submitted to the commissioner within 30 days of receipt of a final written notice of a determination by the utilization review company.

(b) Pursuant to sections 38a-226c(a)(1)(E) and 38a-226c(a)(2) of the Connecticut General Statutes, each utilization review company shall maintain and provide with each final written notice of a determination not to certify an admission, service, procedure or extension of stay, a statement that all internal appeals have been exhausted for that service and a copy of a pamphlet, created and made available to utilization review companies by the commissioner and reproduced by the utilization review company, containing the procedure and application to appeal to the commissioner pursuant to section 38a-478n of the Connecticut General Statutes. The pamphlet may be created and made available to the utilization review company by the commissioner and shall be reproduced and used by the utilization review company if so made. A copy of the pamphlet shall also be available from the utilization review company to the enrollee, upon request.

(c) If the provider of record or enrollee has provided incomplete information to a utilization review company, the utilization review company shall indicate, in writing, to the provider of record and the enrollee all information that is needed to make a determination regarding certification of an admission, procedure, treatment or length of stay. Upon failure of the provider of record or enrollee to provide such information, the utilization review company shall either: (1) issue a denial of certification, in accordance with the policy of the utilization review company, based on the failure to provide requested documentation; or (2) not issue a denial of certification but rather notify the enrollee and the provider of record, in writing, that no further action will be taken on the matter, until such time as the requested information is received.

(d) An enrollee or provider of record acting on behalf of the enrollee with the enrollee's written consent, may appeal an adverse determination regarding a managed care plan in accordance with section 38a-478n of the Connecticut General Statutes. If the appeal is accepted for full review, the external appeals entity shall immediately notify the enrollee, provider of record, and the utilization review company of their opportunity to submit the information described in subsection (g) of section 38a-478n-3 of the Regulations of Connecticut State Agencies concerning external appeals within five (5) business days from the date of such notice, for consideration during the external appeals entity's review. The external appeals entity shall provide such notice to the enrollee, provider of record, and to the utilization review company either by facsimile machine or by overnight service. The enrollee or provider of record shall state whether any information submitted in accordance with this subsection is new information. Upon receipt of any new information, the external appeals entity shall immediately contact the utilization review company by telephone and notify them that new information has been presented. The external appeals entity shall provide the utilization review company with the new information either by facsimile machine or by overnight service. The utilization review company shall have two (2) business days from receipt of the new information to determine whether the absence of such new information contributed to the adverse determination. If the utilization review company determines that the absence of such new information contributed to the adverse determination the utilization review company shall have the opportunity to reverse its adverse determination. The utilization review company shall promptly notify the external appeals entity of the decision. If the utilization review company's decision is to reverse its adverse determination, the external appeals entity shall promptly notify the enrollee or provider of record and the commissioner that the utilization review company has reversed the adverse determination based upon the new information. Any reversal of an adverse determination by a utilization review company based upon new information shall not be considered a reversal by the commissioner for the purposes of the reporting requirements established by section 38a-478a of the Connecticut General Statutes.

(e) If an enrollee has been admitted to an acute care hospital and the attending physician determines that the enrollee's life will be endangered or other serious injury or illness could occur if the patient is discharged or if treatment is delayed, the attending physician may transmit, in accordance with the standardized process developed pursuant to section 38a-478p of the Connecticut General Statutes, a request for an expedited review to the utilization review company. If the attending physician receives no response from the utilization review company after three hours have passed since the attending physician sent the request and all information needed to complete the review, the request shall be deemed approved. Each utilization review company shall make review staff available, daily, from 8:00 A.M. to 9:00 P.M. (eastern time) to process requests pursuant to this subsection.

(Adopted effective September 1, 1999; amended August 30, 2004)

Sec. 38a-226c-5. Compensation based on certification denials - prohibited

(a) No staff member, officer or consultant of a utilization review company shall receive any financial incentive based on the number of denials of certification made.

(b) No utilization review company shall receive any financial incentive based on the number of denials of certification made.

(Adopted effective September 1, 1999)

Sec. 38a-226c-6. Confidentiality

(a) Each utilization review company shall comply with the provisions of this section as well as all applicable federal and state laws to protect the confidentiality of patient medical records. Each utilization review company shall:

(1) Secure each case file by assigning case identification numbers to all utilization review requests, and use such numbers in lieu of personally identifiable information, whenever feasible.

(2) Ensure that all paper copies of files are reasonably secured in appropriate storage facilities.

(3) Maintain appropriate written procedures for the requesting, maintenance, and disposition of patient medical records.

(4) Develop and maintain specifications indicating when and by whom the release of patient medical records is permitted.

(5) Ensure that all utilization review business operations are reasonably secured during non-business hours.

(6) Require all employees with access to patient medical records to sign a confidentiality statement, to be maintained on file by the company, in which the employee acknowledges the confidential nature of such information.

(7) Maintain a written policy stipulating sanctions for an employee's unauthorized disclosure of patient medical records, leading to termination of employment.

(8) Maintain procedures for limiting access to computer files containing patient medical records through passwords, restricted functions and computer terminal security.

(9) Develop and maintain procedures addressing the security of all patient medical records that are transferred by facsimile, which shall include:

(i) A statement in all facsimile transmission cover sheets that such data is confidential and is limited specifically for use by the company in making a utilization review determination; and

(ii) Security procedures governing the use of facsimile transmissions, specifying restricted access to such transmissions, the extent of such information that may be released, and the placement of the facsimile machine in a reasonably secured or isolated area.

(b) Summary and aggregate data shall not be considered confidential if it does not provide sufficient information to allow identification of individual patients.

(Adopted effective September 1, 1999)

Sec. 38a-226c-7. Record keeping

Each utilization review company shall maintain an audit trail, through a written control log or computer report, clearly evidencing the date and time a request for:

(1) utilization review;

(2) expedited utilization review as described in subsection (c) of section 38a-226c-4 of the regulations of Connecticut State Agencies;

(3) an appeal of an adverse determination; or

(4) an expedited appeal of an adverse determination was received, the dates, times and reasons for any subsequent requests for additional information required to complete any such review or appeal, the dates and times of the receipt of the additional information and the date and time of notification to the provider of record or the enrollee.

(Adopted effective September 1, 1999)

Sec. 38a-226c-8. Examinations

(a) The commissioner shall, as often as he deems it expedient, undertake a compliance examination of any utilization review company licensed and conducting business in this state. In conducting the examination the commissioner, or his designee, may examine the officers of such utilization review company, its books, records, procedures and any other information deemed to be relevant to the examination.

(b) Upon completing the compliance examination, the commissioner or his designee shall make a full and true report of the examination. The report shall include any corrective or remedial actions deemed necessary to be taken by the utilization review company in order to assure compliance with the requirements of Connecticut law.

(Adopted effective September 1, 1999)

Sec. 38a-226c-9. License required

No utilization review company shall conduct utilization review in this state unless it has been licensed by the commissioner in accordance with section 38a-226a of the general statutes. All requests for licensure shall be made in a manner and on a form prescribed by the commissioner. All licenses shall be renewed annually.

(Adopted effective September 1, 1999)

Sec. 38a-226c-10. Separability

If any provision of sections 38a-226c-1 to 38a-226c-10, inclusive, of the regulations of Connecticut State Agencies or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the provisions of said regulations, and the application of such provision to other persons or circumstances shall not be affected thereby.

(Adopted effective September 1, 1999)