SENATE BILL NO. 446

INTRODUCED BY V. RICCI, C. SCHOMER, E. BUTTREY, C. HINKLE, J. ETCHART, L. DEMING, J. KARLEN, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HEALTH UTILIZATION REVIEW; REQUIRING A PHYSICIAN LICENSED IN THE STATE TO MAKE OR REVIEW AN ADVERSE DETERMINATION OR REVIEW A GRIEVANCE; AND PROVIDING FOR AUTOMATIC APPROVAL OF A HEALTH CARE SERVICE UNDER REVIEW IF A HEALTH INSURANCE ISSUER OR UTILIZATION REVIEW ORGANIZATION FAILS TO COMPLY WITH REQUIREMENTS."

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

NEW SECTION. **Section 1. Qualifications of individuals who make or review adverse determinations.** (1) Only a physician may make an adverse determination pursuant to 33-32-211 or 33-32-212 for a utilization review organization.

(2) A physician who makes an adverse determination:

(a) must possess a current, valid nonrestricted license to practice medicine ~~under Title 37, chapter 3, part 3~~;

(b) must have a specialty that focuses on the diagnosis and treatment of the condition being reviewed; and

(c) shall make the adverse determination under the clinical direction of one of the utilization review organization's medical directors who is responsible for the oversight of the utilization review activities. A medical director used for this purpose must be a physician licensed in the state.

NEW SECTION. **Section 2. Qualifications of individuals who review grievance.** (1) Only a physician may review a grievance as provided under 33-32-308 or 33-32-309 for a utilization review organization.

(2) A physician who reviews a grievance:

(a) must possess a current, valid nonrestricted license to practice medicine ~~under Title 37, chapter 3, part 3~~;

(b) must have the same specialty as a health care provider who typically manages the medical condition or disease or provides the health care service that is the subject of the grievance;

(c) must have experience treating patients with the medical condition or disease that is the subject of the grievance; and

(d) shall review the grievance under the clinical direction of one of the utilization review organization's medical directors who is responsible for the oversight of the utilization review activities. A medical director used for this purpose must be a physician licensed in the state.

(3) A physician who reviews a grievance may not:

(a) have been directly involved in making the adverse determination that is the subject of the grievance; and

(b) have a financial interest in the outcome of the grievance.

NEW SECTION. **Section 3. Failure by health insurance issuer or utilization review organization to comply with law -- automatic authorization of health care service.** If a health insurance issuer or its contracted utilization review organization fails to comply with the requirements of 33-32-211, 33-32-212, 33-32-308, 33-32-309, [section 1], or [section 2], the health care service subject to review is automatically deemed authorized by the health insurance issuer or its contracted utilization review organization.

NEW SECTION. **Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 33, chapter 32, part 2, and the provisions of Title 33, chapter 32, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 33, chapter 32, part 3, and the provisions of Title 33, chapter 32, part 3, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 33, chapter 32, part 1, and the provisions of Title 33, chapter 32, part 1, apply to [section 3].

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