

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 144. Prior Authorization Transparency Act

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 1. Authority

This Rule is issued pursuant to the authority granted the Arkansas Insurance Commissioner ("Commissioner") under Ark. Code Ann. §§ 23-99-1118, 23-99-1113(a)(2)(A), 23-61-108(a)(1), and 23-61-108(b)(1)."

"Section 11. Effective Date.

The effective date of this Rule is February 19, 2018."

Subpart 1. Generally

23 CAR § 144-101. Purpose.

The purpose of this part is to implement Acts 2017, No. 815, of the 91st General Assembly, "An Act To Clarify Certain Provisions Of The Prior Authorization Transparency Act" (hereafter, the "Prior Authorization Transparency Act").

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-102. Applicability and scope.

This part applies to all health benefit plans as defined in Arkansas Code § 23-99-1103(7).

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-103. Definitions.

(a) Unless otherwise separately defined in this part, the terms or phrases as used in this part shall follow the definitions of such terms or phrases as defined in Arkansas Code § 23-99-1103, or as later amended in the Prior Authorization Transparency Act, Arkansas Code § 23-99-1101 et seq.

(b) As used in this part, "benefit inquiry" means an inquiry by an Arkansas-licensed healthcare provider to a utilization review entity related to medical necessity, coverage, or payment for prospective healthcare services, including prescription drugs, for an enrolled member of a healthcare plan of the applicable healthcare insurer for services or prescription drugs that are not subject to prior authorization requirements of the utilization review entity.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-104. Publication of prior authorization and nonmedical review criteria and statistics.

(a) A utilization review entity shall follow the disclosure requirements under Arkansas Code § 23-99-1104.

(b) **Updating statistical reporting data required under Arkansas Code § 23-99-1104.** For the statistical reporting data required under Arkansas Code § 23-99-1104(d), a utilization review entity shall update the required statistics in the format and manner as required by Arkansas Code § 23-99-1104(d) once each quarter of each year from the effective date of this part.

(c) **Effective date for reporting, retention of statistical information, and application of statistics and clinical criteria.**

(1) A utilization review entity is required to disclose the statistical information required under Arkansas Code § 23-99-1104(d) for statistics from health benefit plans occurring on and after July 22, 2015.

(2) A utilization review entity shall disclose and maintain the statistical information as required under Arkansas Code § 23-99-1104(d) for at least a three-year rolling time period.

(3) A utilization review entity is required to disclose statistical reporting data under Arkansas Code § 23-99-1104(d) for Arkansas resident insureds in the individual market or Arkansas resident enrollees or certificate holders in health benefit plans as defined under Arkansas Code § 23-99-1103(7).

(4)(A) For purposes of interpretation of Arkansas Code § 23-99-1104(d)(2)(A) related to the disclosure of prior authorization data, the term "physician specialty" refers to the medical specialty of the treating physician who has submitted the prior authorization request and not to the specialty of the medical reviewer of the utilization review entity.

(B) A utilization review entity shall disclose the physician specialty data to the extent that the utilization review entity has received physician specialty information at the time the prior authorization request is submitted.

(5) For purposes of interpretation of Arkansas Code § 23-99-1104(d)(2)(C) related to the disclosure of prior authorization data, the term "indication offered" means the medical indication, i.e., relevant diagnosis, given by the healthcare provider for the medication, test, or procedure.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-105. Deemer provisions.

(a) Pursuant to Arkansas Code § 23-99-1116(a), if a healthcare insurer or utilization review entity fails to comply with the Prior Authorization Transparency Act, Arkansas Code § 23-99-1101 et seq., the requested healthcare services shall be deemed authorized or approved.

(b) Pursuant to Arkansas Code § 23-99-1116(b), a healthcare service that is authorized or approved under Arkansas Code § 23-99-1116 is not subject to audit recoupment under Arkansas Code § 23-63-1801 et seq.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-106. Persons conducting reviews.

A utilization review entity shall follow the requirements under Arkansas Code § 23-99-1111 related to the required qualifications for persons conducting prior authorization reviews.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-107. Retrospective denials on prior authorizations.

A utilization review entity shall follow the provisions in Arkansas Code § 23-99-1109 related to permissible rescissions of prior authorizations.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-108. Accelerated prior authorizations.

Nothing in the Prior Authorization Transparency Act, Arkansas Code § 23-99-1101 et seq., is intended to prohibit or restrict a utilization review entity from approving a prior authorization request from a healthcare provider in a more expedited time period than the minimums set out in the provisions of the Prior Authorization Transparency Act or this part.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.

23 CAR § 144-109. Benefit inquiries subject to prior authorization requirements.

(a) Pursuant to Arkansas Code § 23-99-1113(a)(2)(A), the following benefit inquiries are subject to the requirements of Arkansas Code § 23-99-1113.

(b)(1) Any utilization review entity responding to a benefit inquiry in which the healthcare provider's billed charge for such services exceeds one thousand five hundred dollars (\$1,500) shall comply with the Prior Authorization Transparency Act, Arkansas Code § 23-99-1101 et seq.

(2) No utilization review entity shall be required to provide a healthcare provider with a response under the Prior Authorization Transparency Act if a healthcare plan or policy is not in force at the time of such inquiry, or in the event that the member is not covered or insured under such plan at the time of such inquiry.

(3) A utilization review entity may require the healthcare provider to provide information in the inquiry describing the member or healthcare plan identification to expedite the inquiry.

Authority. Arkansas Code §§ 23-61-108, 23-99-1113, 23-99-1118.