
SENATE BILL 5159

State of Washington

59th Legislature

2005 Regular Session

By Senator Keiser

Read first time 01/17/2005. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to fees for performing independent reviews of
2 health care disputes; and amending RCW 43.70.235.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.70.235 and 2000 c 5 s 12 are each amended to read
5 as follows:

6 (1) The department shall adopt rules providing a procedure and
7 criteria for certifying one or more organizations to perform
8 independent review of health care disputes described in RCW 48.43.535.

9 (2) The rules must require that the organization ensure:

10 (a) The confidentiality of medical records transmitted to an
11 independent review organization for use in independent reviews;

12 (b) That each health care provider, physician, or contract
13 specialist making review determinations for an independent review
14 organization is qualified. Physicians, other health care providers,
15 and, if applicable, contract specialists must be appropriately
16 licensed, certified, or registered as required in Washington state or
17 in at least one state with standards substantially comparable to
18 Washington state. Reviewers may be drawn from nationally recognized
19 centers of excellence, academic institutions, and recognized leading

1 practice sites. Expert medical reviewers should have substantial,
2 recent clinical experience dealing with the same or similar health
3 conditions. The organization must have demonstrated expertise and a
4 history of reviewing health care in terms of medical necessity,
5 appropriateness, and the application of other health plan coverage
6 provisions;

7 (c) That any physician, health care provider, or contract
8 specialist making a review determination in a specific review is free
9 of any actual or potential conflict of interest or bias. Neither the
10 expert reviewer, nor the independent review organization, nor any
11 officer, director, or management employee of the independent review
12 organization may have any material professional, familial, or financial
13 affiliation with any of the following: The health carrier;
14 professional associations of carriers and providers; the provider; the
15 provider's medical or practice group; the health facility at which the
16 service would be provided; the developer or manufacturer of a drug or
17 device under review; or the enrollee;

18 (d) The fairness of the procedures used by the independent review
19 organization in making the determinations;

20 (e) That each independent review organization make its
21 determination:

22 (i) Not later than the earlier of:

23 (A) The fifteenth day after the date the independent review
24 organization receives the information necessary to make the
25 determination; or

26 (B) The twentieth day after the date the independent review
27 organization receives the request that the determination be made. In
28 exceptional circumstances, when the independent review organization has
29 not obtained information necessary to make a determination, a
30 determination may be made by the twenty-fifth day after the date the
31 organization received the request for the determination; and

32 (ii) In cases of a condition that could seriously jeopardize the
33 enrollee's health or ability to regain maximum function, not later than
34 the earlier of:

35 (A) Seventy-two hours after the date the independent review
36 organization receives the information necessary to make the
37 determination; or

1 (B) The eighth day after the date the independent review
2 organization receives the request that the determination be made;

3 (f) That timely notice is provided to enrollees of the results of
4 the independent review, including the clinical basis for the
5 determination;

6 (g) That the independent review organization has a quality
7 assurance mechanism in place that ensures the timeliness and quality of
8 review and communication of determinations to enrollees and carriers,
9 and the qualifications, impartiality, and freedom from conflict of
10 interest of the organization, its staff, and expert reviewers; and

11 (h) That the independent review organization meets any other
12 reasonable requirements of the department directly related to the
13 functions the organization is to perform under this section and RCW
14 48.43.535, and related to assessing fees to carriers in a manner
15 consistent with the maximum fee schedule developed under this section.

16 (3) To be certified as an independent review organization under
17 this chapter, an organization must submit to the department an
18 application in the form required by the department. The application
19 must include:

20 (a) For an applicant that is publicly held, the name of each
21 stockholder or owner of more than five percent of any stock or options;

22 (b) The name of any holder of bonds or notes of the applicant that
23 exceed one hundred thousand dollars;

24 (c) The name and type of business of each corporation or other
25 organization that the applicant controls or is affiliated with and the
26 nature and extent of the affiliation or control;

27 (d) The name and a biographical sketch of each director, officer,
28 and executive of the applicant and any entity listed under (c) of this
29 subsection and a description of any relationship the named individual
30 has with:

31 (i) A carrier;

32 (ii) A utilization review agent;

33 (iii) A nonprofit or for-profit health corporation;

34 (iv) A health care provider;

35 (v) A drug or device manufacturer; or

36 (vi) A group representing any of the entities described by (d)(i)
37 through (v) of this subsection;

1 (e) The percentage of the applicant's revenues that are anticipated
2 to be derived from reviews conducted under RCW 48.43.535;

3 (f) A description of the areas of expertise of the health care
4 professionals and contract specialists making review determinations for
5 the applicant; and

6 (g) The procedures to be used by the independent review
7 organization in making review determinations regarding reviews
8 conducted under RCW 48.43.535.

9 (4) If at any time there is a material change in the information
10 included in the application under subsection (3) of this section, the
11 independent review organization shall submit updated information to the
12 department.

13 (5) An independent review organization may not be a subsidiary of,
14 or in any way owned or controlled by, a carrier or a trade or
15 professional association of health care providers or carriers.

16 (6) An independent review organization, and individuals acting on
17 its behalf, are immune from suit in a civil action when performing
18 functions under chapter 5, Laws of 2000. However, this immunity does
19 not apply to an act or omission made in bad faith or that involves
20 gross negligence.

21 (7) Independent review organizations must be free from interference
22 by state government in its functioning except as provided in subsection
23 (8) of this section.

24 (8) The rules adopted under this section shall include provisions
25 for terminating the certification of an independent review organization
26 for failure to comply with the requirements for certification. The
27 department may review the operation and performance of an independent
28 review organization in response to complaints or other concerns about
29 compliance. No later than January 1, 2006, the department shall
30 develop a reasonable maximum fee schedule that independent review
31 organizations shall use to assess carriers for conducting reviews
32 authorized under RCW 48.43.535.

33 (9) In adopting rules for this section, the department shall take
34 into consideration standards for independent review organizations
35 adopted by national accreditation organizations. The department may
36 accept national accreditation or certification by another state as
37 evidence that an organization satisfies some or all of the requirements

1 for certification by the department as an independent review
2 organization.

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