

Administrative Procedures – Emergency Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The nature of the peril is the COVID-19 outbreak that is the subject of the all-hazard State of Emergency proclaimed by the Governor on March 16, 2020.

I approve the contents of this filing entitled:

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES



, on 03/20/2020

(signature)

(date)

Printed Name and Title:

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Received 3/23/20

Emergency Rule Coversheet

Michael S. Pieciak

Commissioner of Financial Regulation

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Ethan McLaughlin

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 -
3101

Telephone: 802 828 - 4859 Fax: -

E-Mail: ethan.mclaughlin@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Gavin Boyles

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620 -
3101

Telephone: 802 828 - 1425 Fax: 802 828 - 1919

E-Mail: gavin.boyles@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

This rule is issued pursuant to the authority vested in the Commissioner of the Department of Financial Regulation by 18 V.S.A. § 9414 and 8 V.S.A. §§ 15.

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

8 V.S.A. § 9414 (A) STATES THAT "THE COMMISSIONER [OF FINANCIAL REGULATION] SHALL HAVE THE POWER AND RESPONSIBILITY TO ENSURE THAT EACH MANAGED CARE ORGANIZATION PROVIDES QUALITY HEALTH CARE TO ITS MEMBERS, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION." 8 V.S.A. § 9414 (B) STATES THAT "[T]HE COMMISSIONER SHALL ESTABLISH, BY RULE, SPECIFIC CRITERIA TO BE CONSIDERED UNDER THIS SECTION." THIS EMERGENCY RULE SUSPENDS CERTAIN SPECIFIC CRITERIA PREVIOUSLY ESTABLISHED BY THE COMMISSIONER, BY RULE, REGARDING THE CREDENTIALING PRACTICES OF MANAGED CARE ORGANIZATIONS.

8. CONCISE SUMMARY (150 WORDS OR LESS):

During the COVID-19 State of Emergency, this emergency rule temporarily suspends Section 5.2 of Rule H-2009-03 and requires health insurers to relax credentialing requirements for health care providers. Section 5.2 specifies certain provider credentialing verification requirements and procedures that managed care organizations must follow and implement. Temporarily suspending these credentialing verification requirements and requiring health insurers to relaxing their credentialing requirements during the State of Emergency is intended to facilitate reimbursement through the Medicaid program or commercial insurance during the State of Emergency for health care services provided in the State of Vermont by physicians or other health care professionals who hold an equivalent license in another State.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Addressing and treating the health needs of Vermonters during the COVID-19 outbreak may require health care services provided in the State of Vermont by physicians or other health care professionals who hold an equivalent license in another State. The current

Emergency Rule Coversheet

requirements of Section 5.2 of Rule H-2009-03 and the existing credentialing requirements of health insurers could impede and delay the provision of such health care services by such providers.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

A coalition of health care provider representatives, including the Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bayada Home Health & Hospice, Vermont Health Care Association (long term care facilities), Vermont Care Partners, Bi-State Primary Care Association, the Vermont Medical Society, the Vermont Association of Adult Days, and Dartmouth Hitchcock Health, has communicated to the Governor that relaxing credentialing requirements will help their efforts to fight the COVID-19 pandemic.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Managed Care Organizations regulated by the state of Vermont

The Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bayada Home Health & Hospice, Vermont Health Care Association (long term care facilities), Vermont Care Partners, Bi-State Primary Care Association, the Vermont Medical Society, the Vermont Association of Adult Days, and Dartmouth Hitchcock Health

Physicians or other health care professionals who hold an equivalent license in another State

Patients and members insured by Managed Care Organizations regulated by the state of Vermont

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Responding to the COVID-19 pandemic may require the provision of health care services by physicians or other health care professionals who hold an equivalent license in another State and may require health care professionals to work at physical locations where such providers are not credentialed to provide services. Facilitating the reimbursement for such services by health insurers is expected to significantly decrease the out of pocket costs incurred by Vermont patients. Health Insurers are likely

Emergency Rule Coversheet

to pay out more money to reimburse providers for the provision of such services.

13. A HEARING IS NOT SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 03/20/2020

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

09/16/2020

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Managed Care Organization

Credentialing

COVID-19

CORONAVIRUS

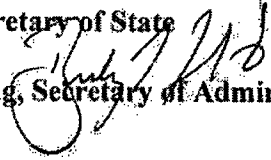
State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
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[phone] 802-828-3322
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Susanne R. Young, Secretary

MEMORANDUM

TO: Jim Condos, Secretary of State

FROM: Susanne R. Young, Secretary of Administration 

DATE: March 23, 2020

RE: Emergency Rule Titled 'Suspension of Credentialing Verification Practices' by the Department of Financial Regulation

The use of rulemaking procedures under the provisions of 3 V.S.A. §844 is appropriate for this rule. I have reviewed the proposed rule provided by the Department of Financial Regulation and agree that emergency rulemaking is necessary.

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Secretary of State Rule Log #17-001

21 040 010. RULE H-2009-03 - CONSUMER PROTECTION AND QUALITY REQUIREMENTS FOR MANAGED CARE ORGANIZATIONS

January 24, 2017

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

2. ADOPTING AGENCY:

Department of Financial Regulation

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Managed Care Organizations

Health Insurers

Health Care Providers

Insured Patients

4. IMPACT ON SCHOOLS:

Economic Impact Analysis

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

None.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

Financial impacts on small business are not anticipated.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Only managed care organizations and health insurers are required to comply with this rule and none of these organizations are small businesses.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Without this rule, the provision of health care services to Vermonters during the COVID-19 outbreak could be impaired or delayed. Material impairments or delays in the provision of health care services during the COVID-19 outbreak could have devastating economic consequences for individual patients and for the economy of the entire state.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

In light of the urgency of responding to the COVID-19 outbreak, the Department of Financial Regulation believes the analysis described herein is sufficient to justify the temporary suspension of the existing rule.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

2. ADOPTING AGENCY:

Department of Financial Regulation
Department of Financial Regulation

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
None .

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
None .

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
None .

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
None .

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
None .

Environmental Impact Analysis

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
None.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*
None.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. **TITLE OF RULE FILING:**

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

2. **ADOPTING AGENCY:**

Department of Financial Regulation

3. **PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:**

In light of the unprecedented urgency of addressing the COVID-19 crisis, the Department of Financial Regulation has not sought extensive public comment on this emergency rule. A coalition of health care provider representatives, including the Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bayada Home Health & Hospice, Vermont Health Care Association (long term care facilities), Vermont Care Partners, Bi-State Primary Care Association, the Vermont Medical Society, the Vermont Association of Adult Days, and Dartmouth Hitchcock Health, has communicated to the Governor that relaxing credentialing requirements will help their efforts to fight the COVID-19 pandemic. The Department has been in constant communication with industry and the provider community, including multiple calls per week on responses to the Covid-19 pandemic.

4. **PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

See response to 3, above.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bayada Home Health & Hospice, Vermont Health Care Association (long term care facilities), Vermont Care Partners, Bi-State Primary Care Association, the Vermont Medical Society, the Vermont Association of Adult Days, and Dartmouth Hitchcock Health

Clean
Text

VERMONT DEPARTMENT OF FINANCIAL REGULATION

EMERGENCY RULE H-2020-01-E

SUSPENSION OF CREDENTIALING VERIFICATION PRACTICES

Section 1. Purpose

This emergency rule is promulgated pursuant to 18 V.S.A. § 9414 and 8 V.S.A. § 15 and in response to the State of Emergency declared by the Governor of the State of Vermont on March 16, 2020 regarding the outbreak of COVID-19. The purpose of this emergency rule is to relax provider credentialing requirements in order to facilitate the reimbursement through commercial insurance during the State of Emergency for health care services provided by physicians or other health care professionals who hold an equivalent license in another State.

Section 2. Definitions.

Terms used in this emergency rule and not defined herein shall have the meanings given to such terms, if any, in Rule H-2009-03, Consumer Protection and Quality Requirements for Managed Care Organizations.

Section 3. Temporary Suspension of Provider Credentialing Verification Requirements.

The requirements of Section 5.2 of Rule H-2009-03, Consumer Protection and Quality Requirements for Managed Care Organizations, are hereby suspended effective as of March 20, 2020 until September 16, 2020 with respect to physicians or other health care professionals who hold a license in another State and provide health care services to or on behalf of patients in Vermont, either in person or remotely, by means of telemedicine or otherwise, and with respect to other health care professionals who have been issued provisional or temporary Vermont licensure during the COVID-19 State of Emergency.

Section 4. Relaxation of Provider Credentialing Requirements.

- (a) During the COVID-19 State of Emergency, except as otherwise required by applicable federal law or applicable accreditation standards of the National Committee for Quality Assurance, a health insurer shall allow for individual health care providers to deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs, including, but not limited to relaxing provider credentialing requirements for physicians or other health care professionals who hold a license in another State and provide health care services to or on behalf of patients in Vermont, either in person or remotely, by means of telemedicine or otherwise, and with respect to other health care professionals who have been issued provisional or temporary Vermont licensure during the COVID-19 State of Emergency.
- (b) During the COVID-19 State of Emergency, except as otherwise required by applicable federal law or applicable accreditation standards of the National Committee for Quality

Assurance, a health insurer shall not refuse, because of lack of credentials, to pay claims submitted by providers credentialed within a health care organization but not at that health care organization's location where the service was provided or at a location not in that health care organization.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 8 : Banking And Insurance

Chapter 001 : Policy And Administration

(Cite as: 8 V.S.A. § 15)

§ 15. Rules, orders, and administrative interpretations

(a) In addition to other powers conferred by this title and 18 V.S.A. chapter 221, the Commissioner may adopt rules and issue orders as shall be authorized by or necessary to the administration of this title and of 18 V.S.A. chapter 221, and to carry out the purposes of such titles.

(b) The Commissioner may, whether or not requested by any person, issue written advisory interpretations, advisory opinions, non-objection letters, and no action letters under this title and regulations issued under it, including interpretations of the applicability of any provision of this title and regulations issued under it. Such interpretations shall be presumed to be correct unless found to be clearly erroneous by a court of competent jurisdiction. The Commissioner may make public all or a portion of an advisory interpretation.

(c) The Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the Commissioner deems necessary to permit the Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the Commissioner under this title, Title 9, or 18 V.S.A. chapter 221.

(d) Upon written request by the Office of Child Support and after notice and opportunity for hearing to the licensee as required under any applicable provision of law, the Commissioner may revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person under this title, 9 V.S.A. chapter 150, and 18 V.S.A. chapter 221, if the Commissioner finds that the applicant or licensee is subject to a child support order and is not in good standing with respect to that order or is not in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed or as of the date of the commencement of revocation proceedings, as applicable. For purposes of such findings, the written representation to that effect by the Office of Child Support to the Commissioner shall constitute prima facie evidence. The Office of Child Support shall have the right to intervene in any hearing conducted with respect to such license revocation or suspension. Any findings made by the Commissioner based solely upon the written representation with respect to that license revocation or suspension shall be made only for the purposes of that proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from that license revocation or suspension. Any license or certificate of authority suspended or revoked under this section shall not be reissued or renewed until the Department receives a certificate issued by the Office of Child Support that the licensee is in good standing with respect to a child support order or is in full compliance with a plan to pay any and all child support payable under a support order. (Added 1999, No. 153 (Adj. Sess.), §

1, eff. Jan. 1, 2001; amended 2009, No. 42, § 33a; 2013, No. 73, § 58, eff. June 5, 2013; 2015, No. 63, § 3, eff. June 17, 2015; 2019, No. 20, § 106.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 18 : Health

Chapter 221 : Health Care Administration

Subchapter 001 : Quality, Resource Allocation, And Cost Containment

(Cite as: 18 V.S.A. § 9414)

§ 9414. Quality assurance for managed care

(a) The Commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

(1) In determining whether a managed care organization meets the requirements of this section, the Commissioner may review and examine, in accordance with subsection (e) of this section, the organization's administrative policies and procedures, quality management and improvement procedures, utilization management, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, grievance and appeal procedures, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities. The Commissioner shall establish, by rule, specific criteria to be considered under this section.

(2) A managed care organization shall, in plain language, disclose to its members:

(A) any provision of its enrollment plan or provider contracts that may restrict referral or treatment options or that may require prior authorization or utilization review or that may limit in any manner the services covered under the members' enrollment plan;

(B) the criteria used for credentialing or selecting health care providers with whom the organization contracts;

(C) the financial inducements offered to any health care provider or health care facility for the reduction or limitation of health care services;

(D) the utilization review procedures of the organization, including the credentials and training of utilization review personnel;

(E) whether the organization's health care providers are contractually prohibited from participating in other managed care organizations or from performing services for persons who are not members of the managed care organization;

(F) upon request, health care providers available to members under the enrollment plan.

(3) A managed care organization shall not include any provision in a contract with a health care provider that prohibits the health care provider from disclosing to members information about the contract or the members' enrollment plan that may affect their health or any decision regarding health care treatment.

(4) The Commissioner or designee may resolve any consumer or provider complaint arising out of this subsection as though the managed care organization were an insurer licensed pursuant to Title 8. As used in this section, "complaint" means a report of a violation or suspected violation of the standards set forth in this section or adopted by rule pursuant to this section and made by or on behalf of a consumer or provider.

(5) The Commissioner shall prepare an annual report on or before July 1 of each year providing the number of complaints received during the previous calendar year regarding violations or suspected violations of the standards set forth in this section or adopted by rule pursuant to this section. The report shall specify the aggregate number of complaints related to each standard and shall be posted on the Department's website.

(b)(1) A managed care organization shall assure that the health care services provided to members are consistent with prevailing professionally recognized standards of medical practice.

(2) A managed care organization shall participate in the Blueprint for Health established in chapter 13 of this title. If needed to implement the Blueprint, a managed care organization shall establish a chronic care program, which shall include:

(A) appropriate benefit plan design;

(B) informational materials, training, and follow-up necessary to support members and providers; and

(C) payment reform methodologies.

(3) Each managed care organization shall have procedures to assure availability, accessibility, and continuity of care, and ongoing procedures for the identification, evaluation, resolution, and follow-up of potential and actual problems in its health care administration and delivery.

(4) Each managed care organization shall be accredited by a national independent accreditation organization approved by the Commissioner.

(c) Consistent with participation in the Blueprint for Health pursuant to subdivision (b)(2) of this section and the accreditation required by subdivision (b)(4) of this section, the managed care organization shall have an internal quality assurance program to monitor and evaluate its health care services, including primary and specialist physician services, and ancillary and preventive health care services, across all institutional and noninstitutional settings. The internal quality assurance program shall be fully described in written form, provided to all managers, providers, and staff and made available to members of the organization. The components of the internal quality assurance program shall include the following:

(1) a peer review committee or comparable designated committee responsible for quality assurance activities;

(2) accountability of the committee to the board of directors or other governing authority of the organization;

(3) participation by an appropriate base of providers and support staff;

(4) supervision by the medical director of the organization;

(5) regularly scheduled meetings; and

(6) minutes or records of the meetings which describe in detail the actions of the committee, including problems discussed, charts reviewed, recommendations made, and any other pertinent information.

(d), (e) [Repealed.]

(f)(1) For the purpose of evaluating a managed care organization's performance under the provisions of this section, the Commissioner may examine and review information protected by the provisions of the patient's privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential.

(2) [Repealed.]

(3) Any information made available under this section shall be furnished in a manner that does not disclose the identity of the protected person. The Commissioner shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner. Information disclosed to the Commissioner under this section shall be confidential and privileged and shall not be subject to subpoena or available for public disclosure, except that the Commissioner is authorized to use such information during the course of any legal or regulatory action under this title against a managed care organization.

(g)(1) In addition to any other remedy or sanction provided by law, after notice and an opportunity to be heard, if the Commissioner determines that a managed care organization has violated or failed to comply with any of the provisions of this section or any rule adopted pursuant to this section, the Commissioner may:

(A) sanction the violation or failure to comply as provided in Title 8, including sanctions provided by or incorporated in 8 V.S.A. §§ 4726, 5108, and 5109, and may use any information obtained during the course of any legal or regulatory action against a managed care organization;

(B) order the managed care organization to cease and desist in further violations;
and

(C) order the managed care organization to remediate the violation, including issuing an order to the managed care organization to terminate its contract with any person or entity which administers claims or the coverage of benefits on behalf of the managed care organization.

(2) A managed care organization that contracts with a person or entity to administer claims or provide coverage of health benefits is fully responsible for the acts and omissions of such person or entity. Such person or entity shall comply with all obligations, under this title and Title 8, of the health insurance plan and the health insurer on behalf of which such person or entity is providing or administering coverage.

(3) A violation of any provision of this section or a rule adopted pursuant to this section shall constitute an unfair act or practice in the business of insurance in violation of 8 V.S.A. § 4723.

(h) Each managed care organization subject to examination, investigation, or review by

the Commissioner under this section shall pay the Commissioner the reasonable costs of such examination, investigation, or review conducted or caused to be conducted by the Commissioner, at a rate to be determined by the Commissioner. All examinations conducted under this section shall be pursuant to and in conformity with 8 V.S.A. §§ 3573, 3574, 3575, and 3576, except that the Commissioner may modify or adapt those examination guidelines, principles, and procedures to be more appropriate or useful to the examination of managed care organizations.

(i) [Repealed.] (Added 1993, No. 30, § 19; amended 1995, No. 180 (Adj. Sess.), §§ 21, 38(a), (b); 1999, No. 38, § 22, eff. May 20, 1999; 2007, No. 142 (Adj. Sess.), §§ 2, 3, eff. May 14, 2008; 2007, No. 204 (Adj. Sess.), § 1; 2015, No. 54, § 36; 2015, No. 152 (Adj. Sess.), § 7.)



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Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	20-E01
Title:	Suspension of Credentialing Verification Practices.
Type:	Emergency
Status:	Adopted
Agency:	Department of Financial Regulation
Legal Authority:	18 V.S.A. § 9414 and 8 V.S.A. § 15
Summary:	<p>During the COVID-19 State of Emergency, this emergency rule temporarily suspends Section 5.2 of Rule H-2009-03 and requires health insurers to relax credentialing requirements for health care providers. Section 5.2 specifies certain provider credentialing verification requirements and procedures that managed care organizations must follow and implement. Temporarily suspending these credentialing verification requirements and requiring health insurers to relaxing their credentialing requirements during the State of Emergency is intended to facilitate reimbursement through the Medicaid program or commercial insurance during the State of Emergency for health care services provided in the State of Vermont by physicians or other health care professionals who hold and equivalent license in another state Managed Care Organizations regulated by the State of Vermont. The Vermont Association of Hospitals and Health Systems, VNAs of Vermont, Bayada Home Health & Hospice, Vermont Health Care Association (long term care facilities), Vermont Care Partners, Bi-State Primary Care Association, the Vermont Medical Society, the Vermont Association of Adult Days and Dartmouth Hitchcock Health. Physicians or other health care professionals who hold an equivalent license in another State. Patients and members insured by Managed Care Organizations regulated by the State of Vermont.</p>
Persons Affected:	<p>Responding to the COVID-19 pandemic may require the provision of health care services by physicians or other health care professionals who hold an equivalent license in another state and may require health care professionals to work at physical locations where such providers are not credentialed to provide services. Facilitating the reimbursement for such services by health insurers is expected to significantly decrease the out of pocket costs incurred</p>
Economic Impact:	

by Vermont patients. Health Insurers are likely to pay out more money to reimburse providers for the provision of such services.

Posting date:

Mar 20,2020

Hearing Information

There are not Hearings scheduled for this Rule

Contact Information

Information for Primary Contact

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Keyword Information

Keywords:

Managed Care Organization
Credentialing
COVID-19
CORONAVIRUS

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