

Section E

1. Agent will provide utilization services as described in Article 49 of the New York State Insurance Law for (check ALL that apply):

- Insurers subject to Article 32 of the Insurance Law
- Insurers subject to Article 43 of the Insurance Law
- Municipal Cooperative Health Benefit Plans certified pursuant to Article 47 of the Insurance Law

2. Agent will conduct the following utilization review functions:

- | | | |
|---|-----------|--|
| <p><u>Full Report</u></p> <input type="checkbox"/> All UR Functions | OR | <p><u>Limited Report (Check ALL that apply)</u></p> <input type="checkbox"/> Prior Authorization
<input type="checkbox"/> Concurrent Review
<input type="checkbox"/> Retrospective Review
<input type="checkbox"/> Initial Adverse Determinations
<input type="checkbox"/> Review of Appeals
<input type="checkbox"/> Review of Out of Network Service Appeals (see IL §§4900(g-6) and 4904(a-1))
<input type="checkbox"/> Review of Out of Network Referral Appeals (see IL §§4900(g-6-a) and 4904(a-2))
<input type="checkbox"/> Final Adverse Determinations
<input type="checkbox"/> Process response/compliance for State External Appeal |
|---|-----------|--|

3. Agent will subdelegate utilization review functions to (check ALL that apply):

- Another NYS UR Agent: _____
- PHL Article 28 licensed facility
- Mental Hygiene Law Article 31 licensed facility
- Other: _____

Describe circumstances under which delegation will occur:

- No subdelegation

4. Agent will review medical necessity for the following services (check ALL that apply):

- | | |
|--|--|
| <input type="checkbox"/> Comprehensive health care services (specialty, inpatient and ancillary) | <input type="checkbox"/> Specific health care service: |
| <input type="checkbox"/> Home health care following an inpatient stay | <input type="checkbox"/> Behavioral Health |
| <input type="checkbox"/> Substance use disorder treatment | <input type="checkbox"/> Dental |
| | <input type="checkbox"/> Oncology |
| | <input type="checkbox"/> Pharmacy |
| | <input type="checkbox"/> Physical Therapy |
| | <input type="checkbox"/> Radiology |
| | <input type="checkbox"/> Vision |
| | <input type="checkbox"/> Other: _____ |

5. Agent is accredited by the Utilization Review Accreditation Commission (URAC):

- YES, current certificate attached.
- NO

6. Agent's utilization review policies and procedures also comply with (check ALL that apply):

- US DOL 29 CFR Part 2560 for group health plans
- US DOL 29 CFR Part 2590 for group health plans
- US HHS 45 CFR Part 147 for individual market and group health plans
- Other: _____
- Not applicable. Describe: _____

7. Agent filed a Utilization Review Report with the NYS Department of Health:

- YES Date Filed: _____
- NO

Section F

Check one:

- The Agent's full UR documentation is attached.* (Complete this section and Section G.)
- There have been no material changes made to the Agent's UR documentation previously submitted to the Department of Financial Services. (Proceed to Section H.)
- Material changes have been made to the Agent's previously submitted UR documentation as follows: (Complete this section and Section G for revised material only.)

* All of the following requirements must be addressed except as follows:

- For Agents that will not issue adverse determinations (approvals only) items 15, 16, 18, 19, 20, and 24 may be marked not applicable.
- For Agents that will not conduct appeals, items 22 and 24 may be marked not applicable.

Agent is Compliant with the Following Requirements and Prohibitions	Y	N	NYS Cite ¹	Indicate Location: Policy and Page Number
1. The Agent maintains the confidentiality of all records in accordance with applicable federal and state laws.	<input type="checkbox"/>	<input type="checkbox"/>	§4901(b)(11) §4902(a)(7) §4905(a)(1)	
2. In no event, will information obtained by the Agent be used by persons other than health care professionals, medical record technologists or administrative personnel who have been appropriately trained.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(h)	
3. Administrative personnel, health care professionals and clinical peer reviewers performing utilization review are appropriately trained; licensed, registered, certified and credentialed as required; and supervised.	<input type="checkbox"/>	<input type="checkbox"/>	§4901(b)(6)-(8) §4903(a) §4905(c)	
4. The Agent does not permit or provide compensation or anything of value (including decisions on hiring, promotion or termination) to persons conducting UR based on: a percentage of the amount by which a claim is reduced for payment or the number of claims, or cost of services for denied authorizations or payments; or any other method that encourages the rendering of adverse determinations.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(d) 45 CFR 147.136(b)(2)(ii)(D) 45 CFR 147.136(b)(3)(ii)(D)	
5. A health care professional providing care to an enrollee is prohibited from serving as a clinical peer reviewer for health care provided to that enrollee.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(o)	
6. The Agent will not transfer liability for the Agent's activities, actions or omissions to the health care provider.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(n)	
7. The Agent will operate not less than 40 hours per week. The Agent has a telephone system capable of accepting, recording, or providing instruction to incoming calls during non-business hours to ensure a response is provided by the next business day OR the Agent is capable of responding to concurrent review requests and expedited appeals on a 24/7 basis.	<input type="checkbox"/>	<input type="checkbox"/>	§4901(a)(10) §4902(a)(6)	
8. The Agent's Utilization Review Plan includes the following: <ul style="list-style-type: none"> • Process for developing written clinical review criteria; • Description of clinical review criteria to be used; • Description of practice guidelines and standards for determining medical necessity; • Process for scheduled review and evaluation of clinical review criteria; and • Description of qualification and experience of personnel responsible for development, and evaluation of clinical review criteria. 	<input type="checkbox"/>	<input type="checkbox"/>	§4900(j) §4901(b)	
9. Definition of Medical Necessity.	<input type="checkbox"/>	<input type="checkbox"/>	§4324(a)(1) §3217-a(a)(1)	
10. Definition of Emergency Condition.	<input type="checkbox"/>	<input type="checkbox"/>	§4900(c)	

¹ All statutory references are to the Insurance Law.

Section F (continued)

<p>11. In any event, the Agent will not require or suggest any enrollee or provider notify or contact the Agent, or obtain prior authorization, before the provision of emergency care, including emergency treatment or an emergency admission. The Agent will not deny emergency services on retrospective review if care was provided to treat or stabilize an emergency condition.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4900(c) §4901(b)(5) §4902(a)(8) §4905(m)</p>	
<p>12. The Agent will not conduct UR more frequently than necessary to assess medical necessity.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4905(f)</p>	
<p>13. The Agent will collect only information necessary to make a UR determination and will not routinely require providers to code requests or submit medical records for all patients. During prior and concurrent reviews, only the necessary and relevant sections of medical records will be requested, if needed to verify medical necessity.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4905(g)</p>	
<p>14. The Agent will not conduct UR at the site of health care provision unless the conditions of Insurance Law §4905(i) are met. The Agent will not base an adverse determination on a refusal to consent to observe any health service.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4905(i) §4905(j)</p>	
<p>15. The Agent will not base an adverse determination on lack of access to medical records (lack of information) unless reasonable notice has been provided to the enrollee, their designee, or their provider (enrollee is also notified) that the information is required.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4905(k)</p>	
<p>16. If a request for home health care services and all necessary information is submitted to the Agent prior to discharge from an inpatient admission, the Agent will not deny, on the basis of medical necessity or lack of prior authorization, coverage for home health care services provided while the determination by the Agent is pending.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4903(c)</p>	
<p>17. The Agent permits a designee (an authorized representative) to act on behalf of the enrollee in pursuing a request for benefits and an appeal or an adverse determination.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4903(b) §4903(c) §4904(a) 29 CFR 2560.503-1(b)(4)</p>	
<p>18. All adverse determinations and final adverse determinations are rendered by clinical peer reviewers. The clinical peer reviewer rendering the determination on the appeal is not the clinical peer reviewer who made the adverse determination or the subordinate of such clinical peer reviewer.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4900(b)(1) §4903(a)(3) §4904(d) 45 CFR 2560.503-1(h)(3)(ii)</p>	
<p>19. The Agent ensures that statements of clinical rationale for adverse determinations and final adverse determinations will, at a minimum, identify:</p> <ul style="list-style-type: none"> ● The enrollee and the nature of his/her medical condition; ● The medical service, treatment or procedure in question; ● The basis or bases on which the utilization review agent determined that the service, treatment or procedure is or was not medically necessary or experimental/investigational (with specific use of terms), which shall demonstrate that the agent considered enrollee-specific clinical information in its determination; and ● For final adverse determinations of out of network denials, the alternate service available in network and how to access the service. ● For final adverse determinations of out-of-network referral denials, the names of in-network health care provider(s) identified by the insurer that have the appropriate training and experience to meet the particular health care needs of the enrollee and are able to provide the requested health service. <p>The Agent ensures that statements of reason and clinical rationale for adverse determinations will be sufficiently specific to enable the enrollee and the enrollee's health care provider to make an informed judgment regarding 1) whether or not to appeal the adverse determination or final adverse determination, and 2) the grounds for such an appeal.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>§4903(e)(1) §4904(c)(1) §4904(a-1) §4904(a-2) 11 NYCRR 410.9(e)(1)</p>	

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20. Upon retrospective review, the Agent will not modify standards or criteria used to prior approve a service. The Agent will not deny payment for a preauthorized service unless the conditions of Insurance Law §3238 are met.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(e) §3238	
21. If the Agent fails to meet required timeframes to make an initial determination, the Agent will consider the decision to be an adverse determination subject to appeal.	<input type="checkbox"/>	<input type="checkbox"/>	§4903(g)	
22. If the Agent fails to meet required timeframes to make a final determination on an appeal, the Agent will reverse the initial adverse determination.	<input type="checkbox"/>	<input type="checkbox"/>	§4904(e)	
23. The Agent will not take any action to penalize or discourage an enrollee or provider from appealing, or seeking dispute resolution or judicial review of an adverse determination.	<input type="checkbox"/>	<input type="checkbox"/>	§4905(l)	
24. The Agent will participate in the external appeal process and abide by the decisions of the external appeal agent on behalf of a contracted insurer pursuant to Article 49 Title 2 and 11 NYCRR 410.	<input type="checkbox"/>	<input type="checkbox"/>	§4910 §4914 11 NYCRR 410.9(e)	

Section G

1. The Agent will ensure that all utilization review determinations, whether adverse or not, are made within the timeframes provided by Article 49 of the Insurance Law. The Agent will ensure that all adverse determinations are made within the timeframes provided by US DOL 29 CFR Part 2560, US DOL 29 CFR Part 2590, and US HHS 45 CFR Part 147, as applicable. The Agent's utilization review processes meet the minimum requirements described:

Attachments A: Minimum Process Requirements for Prior Authorization, Concurrent and Retrospective Authorization Utilization Review.

2. Will the Agent conduct some or all utilization review functions through an off-shore operations center?

Off-shore operation centers will be used and the following conditions will be met:

- Off-shore operations are limited to commercial business only;
- All clinical professionals will be licensed in the US;
- Payment for off-shore services will be made to an account located in a US financial institution; and
- Off-shore staff will be trained in and comply with federal and NYS confidentiality requirements and documentation of training will be retained.
-

Off-shore operation centers will not be used to conduct utilization review functions.

3. The following template notices are attached for UR functions conducted and all applicable product lines:

- Initial Adverse Determination
- Initial Denials for Out of Network Referral Request and Out of Network Service Request
- Final Adverse Determinations
- External Appeal Standard Description and Application
- The Agent will not issue adverse determinations

Section H**Attestation:**

I, _____ (Chief Executive Officer) subscribe and affirm as true, under penalty of perjury, the information included in this application and reported to the New York State Department of Financial Services.

I further attest that the Agent will conduct utilization review in a manner compliant with federal and New York State Law and regulation. If the policies or procedures of the Agent are found by the New York State Department of Financial Services to be non-compliant, the Agent will modify such policies or procedures, as directed by the New York State Department of Financial Services, within thirty (30) days.

I further agree that the filing of the Utilization Review Report is valid only as long as the conditions listed in Section E exist. At such time that the Utilization Review Agent intends to change the utilization review services offered, an amended report will be submitted to the New York State Department of Financial Services prior to implementing any contract for the provision of these services.

I further attest that, if the registered Agent's Corporate Name has changed, all utilization review functions, policies and procedures as previously reported to the Department of Financial Services have not changed, except where material changes have been reported in this application.

Signature:

Date: