

Statement of Basis, Purpose, Substance and Impact
for

12 VAC 5-408-10

Regulations for the Certification of Managed Care Health Insurance Plan Licensees

I. Basis

The regulation is promulgated under the authority of Title 32.1 of the Code of Virginia (Code). Section 32.1-137.3 establishes a statutory provision directing the Board of Health, consistent with its duties to protect the health, safety, and welfare of the public, to promulgate regulations governing the quality of care provided to covered persons by a managed care health insurance plan licensee through its managed care health insurance plans (MCHIPs). Section 32.1-137.4 authorizes the State Health Commissioner to examine or review each MCHIP for the purpose of considering the compliance of the managed care health insurance plan licensee with the regulations promulgated under § 32.1-137.3.

II. Purpose

With the expanding influence of managed care, the number of MCHIPs and persons enrolled in them will increase the need for standards assuring the quality of care provided by MCHIP licensees. The proposed regulation will help allay public concerns over quality in the managed health care market by, among other things, establishing protective standards and providing a process for the redress of complaints against MCHIP licensees for the quality of care and services provided.

III. Substance

The key provisions of the proposed regulation create requirements that MCHIPs have: (i) a complaint system for reasonable and adequate procedures for the timely resolution of written complaints; (ii) a reasonable and adequate system for assessing the satisfaction of its covered persons; (iii) a system to provide for reasonable and adequate availability of and accessibility to health care services for its covered persons; (iv) reasonable and adequate policies and procedures to encourage the appropriate provision and use of preventive services for its covered persons; (v) reasonable and adequate standards and procedures for credentialing and recredentialing the providers with whom it contracts; (vi) reasonable and adequate procedures to inform its covered persons and providers of the managed care health insurance plan licensee's policies and procedures; (vii) reasonable and adequate systems to assess, measure, and improve the health status of covered persons, including outcome measures, (viii) reasonable and adequate policies and procedures to ensure confidentiality of medical records and patient information to permit effective and confidential patient care and quality review; (ix) reasonable, timely and adequate requirements and standards for utilization review entities; and (x) such other requirements as the Board may establish by regulation consistent with [Article 1.1 in Chapter 5 of Title 32.1.]

IV. Issues

The first legislation specific to managed care in Virginia was the HMO Act of 1980, which addressed licensure and operating requirements for health maintenance organizations. Included in the law was the permissive authority of the State Health Commissioner to examine the quality of health care services and the complaint systems of health maintenance organizations (HMOs). Legislation in 1997 (HB2785) changed the Commissioner=s role in examining the quality of health care services from discretionary to mandatory. In addition, VDH was charged with receiving and responding to quality of care complaints from managed care enrollees. However, HB2785 did not include any statutory authority to promulgate regulations necessary to discharge the Department=s new responsibilities. HB2785 also requested that the State Health Commissioner study the quality of health care services provided by managed care entities. The resulting report, presented to the General Assembly and the Governor on October 1, 1997, noted that rapid shifts in the health care market led to consumer demands for improvements in the quality of care and in the level of protection afforded them by MCHIPs. The report suggested that responding to consumer demands would require a deliberate effort, i.e., legislation establishing an impartial authority capable of validating the quality of managed health care services in general.

In 1998, the Administration proposed legislation (SB712) to establish statutorily a quality assurance certification program for MCHIPs to enhance the quality of care for enrollees. The program is to certify health insurance carriers based on quality of care considerations and is expected to operate concurrently with the existing licensure program of the State Corporation Commission=s Bureau of Insurance (Bureau). As a result of the legislation, all MCHIP licensees will have to obtain certification and remain certified by the Department to confirm the quality of health care services they deliver. The debate over managed care carried over to the 1999 session of the General Assembly. Two bipartisan bills (HB871 and SB1235) provide further consumer protections, thereby reinforcing the initiative established with SB712 to affect the quality of health care provided to Virginia=s citizens.

The proposed regulation has a direct benefit for families in Virginia, enrolled in a MCHIP for their health insurance coverage, by providing an assurance of quality care in the managed health care market and by providing an avenue for the redress of complaints against their MCHIP for the quality of care and services provided. However, some Virginia families could experience a rise in the cost of their health insurance plan as a result of some health insurance carriers “passing along” the costs for implementing the regulation to the consumer.

From the beginning of the program development process, the Department worked with the Bureau to identify those health insurance carriers that offer MCHIPs and to ensure that the quality assurance certification program does not unnecessarily duplicate the Bureau=s licensing activities. The Department worked with consumers, advocates and members of the MCHIP industry, providers, purchasers, and the Bureau in developing the proposed regulation. To determine the readiness of the proposed regulation for the public approval process and gauge its impact on the licensed entities, the Department circulated a preliminary draft of the document to licensed entities

and interested parties. Of the approximately 300 draft copies sent out by the Department, 25 responses were received. The Department, therefore, concludes that the low response rate (25 out of 300 possible responses) indicates the general acceptance of the regulation as proposed.

The advantage of implementing the quality assurance certification program is the expansion of the Department's oversight authority of Virginia's health care system, by allowing the Department to monitor the quality of care provided by health insurance payers. Any disadvantage experienced by the Department as a result of implementing the regulation is outweighed by the obvious benefits to Virginia facilities.

The Department is confident the proposed regulation will clarify and carry out the clear intent of the law and define the expectations relating to quality of care upon which certification of MCHIP licensees will be based. In addition, the Department believes that the regulation honors its statutory charge and is the least burdensome alternative available for adequately protecting the health and safety of persons accessing health care services through the various managed care options available in Virginia.

No particular locality is affected more than another by this proposed regulation.