

**SUMMARY**

**RULE 122**

**PRIOR AUTHORIZATION WAIVERS FOR  
POST-ACUTE TRANSFERS**

AID issues this emergency rule in order to help reduce insurance barriers which are operating to slow down or hinder hospital transfers of patients, from a hospital to a post-acute setting. Such barriers are adversely impacting hospital occupancy at a time that more occupancy and resources are needed by our hospitals for COVID-related responses. The primary insurer impediments are derived from insurer, HMO, or Medicare Advantage prior authorization or pre-certification requirements applying to such transfers, for transfers to skilled nursing facilities as well as to post-acute inpatient rehabilitation centers or facilities.

The rule is simple as it entirely prohibits the imposition of any pre-cert requirement or step therapy protocol from the insurer to such transfers. The rule applies to all health benefit plans subject to the Arkansas Prior authorization Act. This is a very broad Act. The definition of health benefit plan is in Ark. Code Ann. § 23-99-1103(7): (A) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by a healthcare insurer in this state. "Healthcare insurer" means an entity that is subject to state insurance regulation, including an insurance company, a health maintenance organization, a hospital and medical service corporation, a risk-based provider organization, and a sponsor of a nonfederal self-funded governmental plan. This would include EBD and the PASSE program.

The authority for this rule is in two (2) parts. One is from the Prior Authorization Transparency Initiative which gives the Department authority to issue rules to implement the Prior Authorization Transparency Act in Ark. Code Ann. §§ 23-99-1101 et seq.; the other authority is the Administrative Procedures Act for issuance of an emergency rule in Ark. Code Ann. §25-15-204 (b) (1).

AID does NOT intend to adopt the currently proposed emergency rule as a permanent rule within 120 days. The proposed Emergency Rule will expire in 120 days.