

## **EMERGENCY RULE 122**

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

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#### **SECTION 1. PURPOSE**

The purpose of this Rule is to temporarily reduce insurance barriers or limitations causing an increase in hospital occupancy and resources during the COVID-19 pandemic due to prior authorization protocols on post-acute transfers of patients.

#### **SECTION 2. STATEMENT OF EMERGENCY**

The Arkansas Insurance Commissioner (“Commissioner”) finds that insurance barriers exist causing unnecessary hospitalizations and hospital resource costs due to health plans applying prior authorization protocols for patients transferring from hospitals to post-acute facilities, skilled nursing facilities, and acute inpatient rehabilitation facilities. The Commissioner finds that a public emergency exists to temporarily eliminate prior authorization requirements that are burdening hospital occupancy and resources as patients wait on authorizations from an insurer, HMO, or Medicare Advantage organization before transitioning to a post-acute care facility from the hospital.

#### **SECTION 3. AUTHORITY**

Pursuant to Ark. Code Ann. §23-99-1118, the State Insurance Department may promulgate rules for the implementation of this subchapter governing the “Prior Authorization Transparency Act.” Ark. Code Ann. §25-15-204 (b) (1) states that if an agency finds that imminent peril to the public health, safety, or welfare or compliance with federal laws or regulations requires adoption of a rule upon less than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any

abbreviated notice and hearing that it may choose, to adopt an emergency rule. The rule may be effective for no longer than one hundred twenty (120) days.

**SECTION 4. DEFINITIONS**

Unless otherwise stated in this Rule, the definitions in Ark. Code Ann. § 23-99-1103 shall apply to the provisions or sections of this Rule.

**SECTION 5. PRIOR AUTHORIZATION WAIVERS FOR POST-ACUTE TRANSFERS**

No health benefit plan, or Utilization Review entity, shall impose a prior authorization protocol, pre-certification requirement, or step therapy procedure for, or upon, transfers of insured patients from hospitals to a post-acute setting or facility which includes but is not limited to skilled nursing facilities, or acute inpatient rehabilitation facilities during the effective time period of this Rule.

**SECTION 6. EFFECTIVE DATE**

This Emergency Rule shall be effective for one hundred and twenty (120) days following approval by the Arkansas Legislative Council, when it shall expire.

  
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ALAN McCLAIN  
INSURANCE COMMISSIONER

12-18-2020  
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DATE