

**SENATE BILL NO. 2184**

Introduced by

Senators Brown, J. Lee

Representatives Devlin, Price

1 A BILL for an Act to amend and reenact section 26.1-26.4-04 of the North Dakota Century  
2 Code, relating to minimum standards for utilization review agents.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 26.1-26.4-04 of the North Dakota Century Code  
5 is amended and reenacted as follows:

6 **26.1-26.4-04. Minimum standards of utilization review agents.** All utilization review  
7 agents must meet the following minimum standards:

- 8 1. Notification of a determination by the utilization review agent must be ~~mailed or~~  
9 ~~otherwise communicated to the provider of record or the enrollee or other~~  
10 ~~appropriate individual within two business days of the receipt of the request for~~  
11 ~~determination and the receipt of all information necessary to complete the review.~~  
12 ~~In the case of a retrospective review, the utilization review agent has five business~~  
13 ~~days after receipt of all information necessary to complete the review to notify the~~  
14 ~~provider of record, enrollee, or appropriate individual~~ provided to the enrollee or  
15 other appropriate individual in accordance with 29 U.S.C. 1133 and the timeframes  
16 set forth in 29 CFR 2560.503-1.
- 17 2. Any determination by a utilization review agent as to the necessity or  
18 appropriateness of an admission, service, or procedure must be reviewed by a  
19 physician or, if appropriate, a licensed psychologist, or determined in accordance  
20 with standards or guidelines approved by a physician or licensed psychologist.
- 21 3. Any notification of a determination not to certify an admission or service or  
22 procedure must include the ~~principal reason for the determination and the~~  
23 ~~procedures to initiate an appeal of the determination~~ information required by  
24 29 U.S.C. 1133 and 29 CFR 2560.503-1.

- 1           4. Utilization review agents shall maintain and make available a written description of  
2           the appeal procedure by which enrollees or the provider of record may seek review  
3           of determinations by the utilization review agent. The appeal procedure must  
4           provide for the following:
- 5           a. On appeal, all determinations not to certify an admission, service, or  
6           procedure as being necessary or appropriate must be made by a physician or,  
7           if appropriate, a licensed psychologist.
- 8           b. Utilization review agents shall complete the adjudication of appeals of  
9           determinations not to certify admissions, services, and procedures ~~no later~~  
10          ~~than thirty days from the date the appeal is filed and the receipt of all~~  
11          ~~information necessary to complete the appeal in accordance with 29 U.S.C.~~  
12          1133 and the timeframes for appeals set forth in 29 CFR 2560.503-1.
- 13          c. Utilization review agents shall provide for an expedited appeals process ~~for~~  
14          ~~emergency or life-threatening situations~~ complying with 29 U.S.C. 1133 and  
15          29 CFR 2560.503-1. ~~Utilization review agents shall complete the adjudication~~  
16          ~~of expedited appeals within forty-eight hours of the date the appeal is filed and~~  
17          ~~the receipt of all information necessary to complete the appeal. The~~  
18          ~~expedited appeals process is not applicable to retrospective reviews.~~
- 19          5. Utilization review agents shall make staff available by toll-free telephone at least  
20          forty hours per week during normal business hours.
- 21          6. Utilization review agents shall have a telephone system capable of accepting or  
22          recording incoming telephone calls during other than normal business hours and  
23          shall respond to these calls within two working days.
- 24          7. Utilization review agents shall comply with all applicable laws to protect  
25          confidentiality of individual medical records.
- 26          8. Psychologists making utilization review determinations shall have current licenses  
27          from the state board of psychologist examiners. Physicians making utilization  
28          review determinations shall have current licenses from the state board of medical  
29          examiners.
- 30          9. When conducting utilization review or making a benefit determination for  
31          emergency services:

- 1           a.    A utilization review agent may not deny coverage for emergency services and  
2                    may not require prior authorization of these services.
- 3           b.    Coverage of emergency services is subject to applicable copayments,  
4                    coinsurance, and deductibles.
- 5        10.   When an initial appeal to reverse a determination is unsuccessful, a subsequent  
6                   determination regarding hospital, medical, or other health care services provided or  
7                   to be provided to a patient which may result in a denial of third-party  
8                   reimbursement or a denial of precertification for that service must include the  
9                   evaluation, findings, and concurrence of a physician trained in the relevant  
10                  specialty to make a final determination that care provided or to be provided was, is,  
11                  or may be medically inappropriate. ~~Subsequent determinations for retrospective~~  
12                  ~~reviews must be completed no later than thirty days from the date the appeal is~~  
13                  ~~filed and all information necessary to complete the appeal is received.~~
- 14    However, the commissioner may find that the standards in this section have been met if the  
15    utilization review agent has received approval or accreditation by a utilization review  
16    accreditation organization.