

**SUBCHAPTER R. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER A HEALTH BENEFIT PLAN
OR HEALTH INSURANCE POLICY
28 TAC §19.1714**

**SUBCHAPTER U. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER WORKERS'
COMPENSATION INSURANCE COVERAGE
28 TAC §19.2014**

1. INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC Chapter 19, Subchapter R, Utilization Reviews For Health Care Provided under a Health Benefit Plan or Health Insurance Policy, §19.1714, Regulatory Requirements Subsequent to Certification or Registration; and Subchapter U, Utilization Reviews for Health Care Provided under Workers' Compensation Insurance Coverage, §19.2014, Regulatory Requirements Subsequent to Certification or Registration, without changes from the proposal that was published in the December 18, 2015, issue of the *Texas Register* (40 TexReg 9073). The amendments conform the rules to changes made by SB 784, 84th Legislature, Regular Session (2015).

2. EXPLANATION. SB 784 repealed Insurance Code §4201.204(c) requiring utilization review agents to submit to the commissioner summary reports of all complaints. Title 28 TAC §19.1714 and §19.2014 expanded the reporting requirement to include adverse determinations and appeals of adverse determinations. The amendments to §19.1714(a)-(c) and §19.2014(a)-(c) remove the requirement for the summary reports.

Sections 19.1714 and 19.2014 are also amended to increase the number of days that a utilization review agent has to respond to a TDI inquiry from 10 to 15 days, to comply with SB 183, 83rd Legislature, Regular Session (2013), which amended Insurance Code §38.001.

The amendments also include nonsubstantive changes to conform the text to current agency style.

3. SUMMARY OF COMMENTS AND AGENCY RESPONSE. There were no comments.

4. STATUTORY AUTHORITY. TDI adopts the amendments to §19.1714 and §19.2014 under Insurance Code §4201.204(c), which was repealed, eliminating the requirement for utilization review agents to submit to the commissioner summary reports. Insurance Code §38.001 allows 15 days for a utilization review agent to respond to TDI. Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of the state.

5. CROSS-REFERENCE TO STATUTE. The amendments implement the repeal of Insurance Code §4201.204(c).

6. TEXT.

§19.1714. Regulatory Requirements Subsequent to Certification or Registration.

(a) Complaints to TDI. Complaints received by TDI against a URA must be processed under TDI's established procedures for investigation and resolution of complaints.

(b) TDI inquiries. TDI may address inquiries to a URA related to any matter connected with URA transactions that TDI considers necessary for the public good or for the proper discharge of TDI's duties. Under Insurance Code §38.001, a URA that receives an inquiry from TDI must respond to the inquiry in writing not later than the 15th day after the date the inquiry is received.

(c) On-site review by TDI. For scheduled and unscheduled on-site reviews, TDI may make a complete on-site review of the operations of each URA at the principal place of business for each agent as often as is deemed necessary. An on-site review will only be conducted during working days and normal business hours. The URA must make available all records relating to its operation during any scheduled and unscheduled on-site review.

(1) Scheduled on-site reviews. URAs will be notified of any scheduled on-site review by letter, which will specify, at a minimum, the identity of TDI's designated representative and the expected arrival date and time.

(2) Unscheduled on-site reviews. At a minimum, notice of an unscheduled on-site review of a URA will be in writing and be presented by TDI's designated representative on arrival.

§19.2014. Regulatory Requirements Subsequent to Certification or Registration.

(a) Complaints to TDI. Complaints received by TDI against a URA must be processed under TDI's established procedures for investigation and resolution of complaints.

(b) TDI inquiries. TDI may address inquiries to a URA related to any matter connected with URA transactions TDI considers necessary for the public good or for the proper discharge of TDI's duties. Under Insurance Code §38.001, a URA that receives an inquiry from TDI must respond to the inquiry in writing not later than the 15th day after the date the inquiry is received.

(c) TDI-DWC inquiries. This section does not limit the ability of the commissioner of workers' compensation or TDI-DWC to make inquiries, conduct audits, or receive and investigate complaints against URAs or personnel employed by or under contract with URAs to perform utilization review to

determine compliance with or violations of Labor Code Title 5, the Insurance Code, or applicable TDI-DWC rules.

(d) On-site review by TDI. For scheduled and unscheduled on-site reviews, TDI may make a complete on-site review of the operations of each URA at the principal place of business for each agent as often as is deemed necessary. An on-site review will only be conducted during weekdays and normal business hours. A URA must make available all records relating to its operation during any scheduled or unscheduled on-site reviews.

(1) Scheduled on-site reviews. A URA will be notified of any scheduled on-site review by letter, which will specify, at a minimum, the identity of TDI's designated representative and the expected arrival date and time.

(2) Unscheduled on-site reviews. At a minimum, notice of an on-site review of a URA will be in writing and be presented by TDI's designated representative on arrival.

7. CERTIFICATION. This agency certifies that legal counsel has reviewed the amendments and found them to be within the agency's legal authority to adopt.

Issued at Austin, Texas, on February 23, 2016.



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Texas Department of Insurance

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TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 19. Agents' Licensing

Adopted Amendments
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The commissioner adopts the amendments to 28 TAC Chapter 19, Subchapter R, Utilization Reviews For Health Care Provided under a Health Benefit Plan or Health Insurance Policy, §19.1714, Regulatory Requirements Subsequent to Certification or Registration; and Subchapter U, Utilization Reviews for Health Care Provided under Workers' Compensation Insurance Coverage, §19.2014, Regulatory Requirements Subsequent to Certification or Registration.



David C. Mattax
Commissioner of Insurance

COMMISSIONER'S ORDER NO. **4327**