

(II) IS ACTIVELY PRACTICING OR HAS DEMONSTRATED EXPERTISE IN THE SUBSTANCE ABUSE OR MENTAL HEALTH SERVICE OR TREATMENT UNDER REVIEW.

(3) WHEN THE HEALTH CARE SERVICE UNDER REVIEW IS A DENTAL SERVICE, THE ADVERSE DECISION SHALL BE MADE BY A LICENSED DENTIST, OR A PANEL OF OTHER APPROPRIATE HEALTH CARE SERVICE REVIEWERS WITH AT LEAST ONE LICENSED DENTIST ON THE PANEL.

(B) ALL ADVERSE DECISIONS SHALL BE MADE BY A PHYSICIAN OR A PANEL OF OTHER APPROPRIATE HEALTH CARE SERVICE REVIEWERS WHO ARE NOT COMPENSATED BY THE PRIVATE REVIEW AGENT IN A MANNER THAT VIOLATES § 19-705.1 OF THE HEALTH - GENERAL ARTICLE OR THAT DETERS THE DELIVERY OF MEDICALLY APPROPRIATE CARE.

(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF A COURSE OF TREATMENT HAS BEEN PREAUTHORIZED OR APPROVED FOR A PATIENT, A PRIVATE REVIEW AGENT MAY NOT RETROSPECTIVELY RENDER AN ADVERSE DECISION REGARDING THE PREAUTHORIZED OR APPROVED SERVICES DELIVERED TO THAT PATIENT.

(D) A PRIVATE REVIEW AGENT MAY RETROSPECTIVELY RENDER AN ADVERSE DECISION REGARDING PREAUTHORIZED OR APPROVED SERVICES DELIVERED TO A PATIENT IF:

(1) THE INFORMATION SUBMITTED TO THE PRIVATE REVIEW AGENT REGARDING THE SERVICES TO BE DELIVERED TO THE PATIENT WAS FRAUDULENT OR INTENTIONALLY MISREPRESENTATIVE;

(2) CRITICAL INFORMATION REQUESTED BY THE PRIVATE REVIEW AGENT REGARDING SERVICES TO BE DELIVERED TO THE PATIENT WAS OMITTED SUCH THAT THE PRIVATE REVIEW AGENT'S DETERMINATION WOULD HAVE BEEN DIFFERENT HAD THE AGENT KNOWN THE CRITICAL INFORMATION; OR

(3) THE PLANNED COURSE OF TREATMENT FOR THE PATIENT THAT WAS APPROVED BY THE PRIVATE REVIEW AGENT WAS NOT SUBSTANTIALLY FOLLOWED BY THE PROVIDER.

(E) IF A COURSE OF TREATMENT HAS BEEN PREAUTHORIZED OR APPROVED FOR A PATIENT, A PRIVATE REVIEW AGENT MAY NOT REVISE OR MODIFY THE SPECIFIC CRITERIA OR STANDARDS USED FOR THE UTILIZATION REVIEW TO MAKE AN ADVERSE DECISION REGARDING THE SERVICES DELIVERED TO THAT PATIENT.

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(a) Except as provided in subsection (b) of this section, a private review agent shall:

(1) make all initial determinations on whether to authorize or certify a nonemergency course of treatment for a patient within 2 working days of receipt of the information necessary to make the determination; and