

PROPOSED RULE 114
PRIOR AUTHORIZATIONS FOR PAIN MEDICATIONS
FOR TERMINAL ILLNESSES

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SECTION 1. AUTHORITY

This Rule is issued pursuant to Ark. Code Ann. § 23-99-414 which authorizes the Arkansas Insurance Commissioner (“Commissioner”) to promulgate rules necessary to carry out the “Arkansas Health Care Consumer Act” subchapter. Act 992 of 2015, “An Act to Regulate the Prior Authorization Procedure for Treatment of a Terminal Illness,” adds various provisions to the prior authorization section in the “Arkansas Health Care Consumer Act” pertaining to prescription pain medication for persons with terminal illnesses. The requirements in Act 992 of 2015 were not later codified in the Prior Authorization subchapter in Act 1106 of 2015, the “Prior Authorization Transparency Act.” The Arkansas Insurance Department (“Department”) however interprets the provisions in Act 992 of 2015 to be enforceable and valid as enacted. The Department is also promulgating the requirements in Act 992 of 2015 to clarify their application to health benefit plans as defined in this Rule, subject to requirements of this Rule.

SECTION 2. DEFINITIONS

- (1) “Covered person” means a “covered person” as defined in Ark. Code Ann. § 23-99-403(3);
- (2) “Health benefit plan” means a “health benefit plan” as defined in Ark. Code Ann. § 23-99-903(7);
- (3) “Healthcare insurer” means a “healthcare insurer” as defined in Ark. Code Ann. § 23-99-903(8);
- (4) “Prescription pain medication” means any medication prescribed as treatment for pain;
- (5) “Prior Authorization” means “prior authorization” as defined in Ark. Code Ann. § 23-99-903(16).
- (6) “Terminal illness” means an illness, a progressive disease, or an advanced disease state from which:
(A) there is no expectation of recovery; and (B) death as a result of the illness or disease is reasonably expected within six (6) months; and
- (7) “Utilization review entity” means a “utilization review entity” as defined in Ark. Code Ann. § 23-99-903(21);

SECTION 3. PAIN MEDICATION AUTHORIZATIONS

If a prescription pain medication requires a prior authorization by a healthcare insurer or utilization review entity, a prior authorization for prescription pain medication shall not be denied to a covered person with a terminal illness by a healthcare insurer or utilization review entity, however, coverage for individual prescriptions may be subject to quantity limits and FDA approval as provided in the health benefit plan and may be monitored by the utilization review entity or healthcare insurer to limit drug diversion and abuse.

SECTION 4. EFFECTIVE DATE

The effective date of this Rule shall be June 6, 2016.

ALLEN W. KERR
INSURANCE COMMISSIONER

DATE