

## 14 NYCRR Part 513

### Job Impact Statement

Job Impact Statement for the repeal of Part 513 is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities. This regulation repeals Title 14 NYCRR Part 513 which is required under Executive Order 38. As Executive Order 38 is not being continued, this part of the NYCRR is no longer necessary.

Executive order 38 required limits on administrative costs and executive compensation for certain individuals or entities that receive state funds or state authorized payments. The repeal will not result in costs, including staffing costs, or new compliance requirements for providers and consequently, the repeal will not have a substantial impact on jobs or employment opportunities in New York State.

14 NYCRR Part 514

Express Terms

Part 514 of Title 14 NYCRR is added to read as follows:

Part 514

CLINICAL REVIEW CRITERIA FOR THE TREATMENT OF MENTAL ILLNESS

(Statutory Authority: Mental Hygiene Law §§7.07, 7.09; Insurance Law §§ 3216, 3221, 4303, 4902;  
Public Health Law §4902)

Sec.

514.1      Background and intent

514.2      Legal base

514.3      Applicability

514.4      Definitions

514.5      Standards for the Approval of Clinical Review Criteria for Use by Utilization Review  
Agents

514.6      Incorporation by Reference

§514.1 Background and intent.

This part establishes the process and standards governing the Office's approval of Clinical Review Criteria used by New York State-registered Utilization Review Agents to determine health care coverage for any treatment or service for a Mental Illness.

§514.2 Legal base.

(a) Section 7.07 of the Mental Hygiene Law grants the Office of Mental Health the power and responsibility to see that people with Mental Illness are provided with care and treatment and that the personal and civil rights of people who receive care and treatment are protected.

(b) Section 7.09 of the Mental Hygiene Law grants the Commissioner of Mental Health the power and responsibility to adopt regulations that are necessary and proper to implement matters under their jurisdiction.

(c) Section 4902 of the Public Health Law requires Utilization Review Agents for health insurance policies under the jurisdiction of the Department of Health to use evidence-based and peer reviewed Clinical Review Criteria that is appropriate to the age of the patient and which has been deemed appropriate and approved for such use by the Commissioner of the Office of Mental Health, in consultation with the Commissioner of Health and the Superintendent of Financial Services for any treatment or service for a Mental Illness.

(d) Section 4902 of the Insurance Law requires Utilization Review Agents for health insurance policies under the jurisdiction of the Department of Financial Services to use evidence-based and peer reviewed Clinical Review Criteria that is appropriate to the age of the patient and which has been deemed appropriate and approved for such use by the Commissioner of the Office of Mental

Health, in consultation with the Commissioner of Health and the Superintendent of Financial Services for any treatment or service for a Mental Illness.

(e) Sections 3216(i)(35)(f), 3221(i)(5)(f), and 4303(g)(7) of the Insurance Law require insurers and corporations that issue health insurance policies or contracts approved by the Department of Financial Services or the Department of Health to provide coverage of inpatient and outpatient care for the treatment of Mental Illness, as specified in the Insurance Law, consistent with the Federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).

#### §514.3 Applicability.

The provisions of this Part shall apply to Utilization Review Agents conducting Utilization Review for purposes of determining health care coverage for any treatment or service for a Mental Illness in accordance with Article 49 of the Insurance Law or Article 49 of the Public Health Law.

#### § 514.4 Definitions.

For purposes of this Part:

(a) *Clinical Review Criteria* means the written screening policies, procedures, clinical protocols, practice guidelines, level of care tools, and programs used by a Utilization Review Agent to determine the medical necessity and appropriateness of a proposed health care service.

(b) *Office* means the New York State Office of Mental Health

(c) *Mental Illness* shall have the same meaning as such term is provided in section 1.03 of the Mental Hygiene Law.

(d) Utilization Review shall have the same meaning as such term is provided in section 4900 of the Public Health Law or section 4900 of the Insurance Law, as applicable.

(e) Utilization Review Agent shall have the same meaning as such term is provided in section 4900 of the Public Health Law or section 4900 of the Insurance Law, as applicable.

#### §514.5 Standards for the approval of Clinical Review Criteria for use by Utilization Review Agents

(a) A Utilization Review Agent shall submit the Clinical Review Criteria used to determine coverage for any treatment or service for a Mental Illness to the Office for review and approval.

(b) The Office shall approve Clinical Review Criteria used to determine coverage for any treatment or service for a Mental Illness that are evidence-based, peer-reviewed, age-appropriate, and meet standards published by the Office, including the *Guiding Principles for the Review and Approval of Clinical Review Criteria for Mental Health Services*, incorporated by reference herein.

(c) The Office shall not approve Clinical Review Criteria proposed to be used to determine coverage for any treatment or service for a Mental Illness in a manner that does not comply with Federal or State mental health and substance use disorder parity laws, which shall be determined in consultation with the Commissioner of Health and the Superintendent of Financial Services.

(d) If a Utilization Review Agent intends to implement new or revised Clinical Review Criteria used to determine coverage for any treatment or service for a Mental Illness, the Utilization Review Agent shall submit such criteria to the Office no later than 60 days prior to the date of implementation and shall not implement such criteria without the written approval of the Office.

#### §514.6 Incorporation by Reference

The provisions of the Guiding Principles for the Review and Approval of Clinical Review Criteria for Mental Health Services, which have been incorporated by reference in this Part, have been filed in the Office of the Secretary of State of the State of New York, the publication so filed being the document entitled: Guiding Principles for the Review and Approval of Clinical Review Criteria for Mental Health Services, and any subsequent updates. This document incorporated by reference may be examined at the Office of the Department of State, 99 Washington Ave, Albany, NY 12231 or obtained from the Office of Mental Health Records Access Officer, 44 Holland Avenue; Albany, NY 12229 or available on the Office of Mental Health website.