Analyzing Trends in Utilization Management: A Focus on Regulations

August 5, 2015
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Webinar Presenters

Bob Atlas, MBA, Moderator
Strategic Advisor & President
EBG Advisors
batlas@ebgadvisors.com

Cheri Lattimer, RN, BSN
Executive Director
Case Management Society of America
clattimer@cm-innovators.com

Garry Carneal, JD, MA
President & CEO, Schooner Strategies
Senior Policy Advisor, Kennedy Forum
gcarneal@schoonerstrategies.com
Presentation Overview

This session will examine the evolution of utilization management (UM) programs over the past three decades, with a detailed overview of how this managed care function is regulated. The webinar will focus on:

- Part I: The Rise of Utilization Management
- Part II: 2015 UM Survey Findings
- Part III: Regulation Oversight & Complexity
- Part IV: The Future of UM
- Part V: RegQuest Overview
- Part VI: Wrap-Up
Part I:
The Rise of Utilization Management
The Rise of Utilization Management

1980s: During the rise of managed care, some utilization review organizations earned a less than stellar reputation for denying care based upon subjective review criteria.

1990s: The proliferation of state legislation and the rise of URAC as an independent accreditation agency promoted more equitable and evidence-based workflow processes when medical necessity decisions were being made by health plans or their subcontractors.

2000s-present: UM programs are now a part of a larger, integrated care management system and platform. Medical necessity determinations often are made within a larger package of medical management services and interventions geared towards optimizing clinical and financial outcomes.
Defining Key Terms

Care Coordination

- Utilization Management (UM)
- Case Management
- Disease Management
- Population Health Management
- External/Independent Review
Medical Management Evolution

- Early 1900s: Case management
- 1973: Federal HMO Act adopted
- 1978: Michigan establishes independent medical review between health plans and patients
- 1988: Maryland becomes first state to adopt UM Law
- 1989: Utilization Review Accreditation Commission (URAC) founded
- 1993: NAIC adopts Model UM Law
- 1995: Workers’ Compensation UM Accreditation Standards
- 1999: Case Management Accreditation Standards
- 2000: External Review Accreditation Standards
- 2002: U.S. DOL Claims Regulations
- 2008: Mental Health Parity Law Adopted
- 2010: Affordable Care Act
- 2015: Active Parity Implementation
Part II:

2015 UM Survey Findings
Utilization Management Survey

- **History**
  - Online Resource Guide by RegQuest in 2014-2015

- **Methodology**
  - Builds upon previous survey work
  - UM buckets
  - Legal research
  - State review
  - What is not covered
Medical Management Surveys

- Utilization Management
- External Review
- Grievance Procedure/Administrative
- State Mental Health Parity Laws
- Case Management
# Medical Management State and Federal Regulatory Provisions

<table>
<thead>
<tr>
<th>Medical Management Functions</th>
<th>State Law</th>
<th>State Regulations</th>
<th>Federal Law</th>
<th>Federal Regulations</th>
<th>Total</th>
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<tbody>
<tr>
<td>Case Management</td>
<td>2,273</td>
<td>5,248</td>
<td>125</td>
<td>96</td>
<td>7,742</td>
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<tr>
<td>Disease Management</td>
<td>151</td>
<td>152</td>
<td>8</td>
<td>1</td>
<td>312</td>
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<tr>
<td>Utilization Management</td>
<td>1,993</td>
<td>2,960</td>
<td>26</td>
<td>110</td>
<td>5,089</td>
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<tr>
<td>Care Coordination</td>
<td>113</td>
<td>369</td>
<td>6</td>
<td>9</td>
<td>497</td>
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</tbody>
</table>

*URAC 2005 Westlaw search 12/04*

Grand Total: 13,640
UM Regulatory Oversight: Key Buckets

Scope & Applicability

Regulatory Contact Information

Registration/Licensure Requirements

Program Requirements

Reviewer Qualifications

Appeals Process
- Internal
- External
From UM to Integrated Population Health

- Rise of population health management
- Reliance on complex, condition management
- Move to integration
- Need for cost containment
- Enforce mental health parity
- More high touch UM interventions
- Focus on clinical and financial outcomes
- Lack of standardization outside of basic UM practices
- Role of regulation is limited
UM Scope & Applicability

- Of the 55 states and territories surveyed, 46 currently regulate UM functions.
- Of those 46 jurisdictions,
  - UM laws/regulations applied to the following types of insurance coverage:
    - HMOs: 43
    - Insurers: 43
    - UROs: 35
    - TPAs: 35
  - UM types specifically referenced:
    - Prospective: 14
    - Concurrent: 14
    - Retrospective: 15
  - 37 had at least one stated exemption where the UM laws/regulations do not apply.
UM Organizational Licensure & Certification Requirements

- 34 out of the 55 jurisdictions have established licensure/certification requirements
  - Renewal Period:
    - Annually: 16
    - Bi-annually: 14
    - Tri-annually: 2
    - No Renewal Specified: 2

- Total requiring fees: 28 out of the 34
- Licensure fees:
  - $100 - $500: 13
  - $501 - $999: 0
  - $1000 - $1500: 12
  - $1501 - $3500: 3
- Reduced/waived fee for URAC accreditation: 4
UM Program Requirements

Key Program Requirements
(N=46 states or territories that regulate UM)

- Clinical Review: 44
- Prohibition Against Financial Incentives: 29
- Telephonic Coverage: 39
- Quality Control Assurance: 33
- Delegated Oversight: 28
- UM Reviewer Requirement: 43
- Medical Director: 20
- Same State Licensure: 23
- Offshore Reviews: 0
UM Review & Appeals

<table>
<thead>
<tr>
<th>Number of Internal UM Appeal Levels?</th>
<th>Number of States</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>14</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
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<tr>
<td>No Provision</td>
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<table>
<thead>
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<th>Timeframe for Initial Determination:</th>
<th>Number of States</th>
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<td>24 Hours</td>
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<td>48 Hours</td>
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<tr>
<td>72 Hours</td>
<td>2</td>
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<tr>
<td>5 Days</td>
<td>1</td>
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<tr>
<td>7 Days</td>
<td>1</td>
</tr>
<tr>
<td>10 Days</td>
<td>3</td>
</tr>
<tr>
<td>15 Days</td>
<td>2</td>
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<tr>
<td>Not Addressed</td>
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## UM Review & Appeals (cont’d)

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<th>Timeframe for Standard Appeal</th>
<th>Number of States</th>
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<tbody>
<tr>
<td>2 days</td>
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<td>4 days</td>
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<tr>
<td>10 days</td>
<td>1</td>
</tr>
<tr>
<td>14 days</td>
<td>1</td>
</tr>
<tr>
<td>15 days</td>
<td>1</td>
</tr>
<tr>
<td>18 days</td>
<td>1</td>
</tr>
<tr>
<td>20 days</td>
<td>2</td>
</tr>
<tr>
<td>30 days</td>
<td>23</td>
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<td>40 days</td>
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<td>45 days</td>
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<td>60 days</td>
<td>10</td>
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<tr>
<td>Not Addressed</td>
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<table>
<thead>
<tr>
<th>Timeframe for Expedited Appeal</th>
<th>Number of States</th>
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</thead>
<tbody>
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<td>1 day</td>
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<td>2 days</td>
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<tr>
<td>3 days</td>
<td>18</td>
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<tr>
<td>4 days</td>
<td>2</td>
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<tr>
<td>7 days</td>
<td>1</td>
</tr>
<tr>
<td>Not Addressed</td>
<td>18</td>
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### Additional Appeal Provisions

<table>
<thead>
<tr>
<th>Provision</th>
<th>Number of States/ter. (n=55)</th>
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</thead>
<tbody>
<tr>
<td>Notice of Appeal Rights</td>
<td>37</td>
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<tr>
<td>Extension Options</td>
<td>7</td>
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<tr>
<td>Final Notification Provision</td>
<td>38</td>
</tr>
<tr>
<td>External Review Provision</td>
<td>49</td>
</tr>
</tbody>
</table>

### Timeframe for Standard Appeal

- 2 days: 1 state
- 4 days: 1 state
- 10 days: 1 state
- 14 days: 1 state
- 15 days: 1 state
- 18 days: 1 state
- 20 days: 2 states
- 30 days: 23 states
- 40 days: 1 state
- 45 days: 2 states
- 60 days: 10 states
- Not Addressed: 11 states

### Timeframe for Expedited Appeal

- 1 day: 5 states
- 2 days: 11 states
- 3 days: 18 states
- 4 days: 2 states
- 7 days: 1 state
- Not Addressed: 18 states
Understanding the Appeals Process

Internal Appeals
- UM Appeal
- Timing Expedited vs. Standard
- Type: Prospective, Concurrent, Retrospective
- Administrative/Grievance Procedure Appeal
- Parity Appeal

External Appeals
- External Review Appeal
- Regulator Complaints
- Accreditation Audits
- Arbitration Hearing
- Judicial Hearing
Part III: Regulation Oversight & Complexity
Insurance Types

- Commercial Insurance
  - Group coverage above 50
  - Small group coverage
  - Individual/non-group coverage

- Self-funded
- Government plan
- TriCare
- Medicare
- Medicaid
- Dual eligible
- Taft Hartley
Regulator Types

Federal

- U.S. Department of Labor (DOL)
- U.S. Department of Health and Human Services (HHS)
- Centers for Medicare and Medicaid Services (CMS)
- DOD/TriCare
- Office or Personnel Management (OPM)
- Accreditation Agencies

State

- State health agencies
- State Medicaid agencies
- State plans
- Accreditation agencies
- State insurance departments
Regulator Guidance

- Federal Statute (e.g., Congress)
- Federal Regulations (e.g., CMS, HHS)
- State Statutes
- State Regulations
- Agency Bulletins
- Attorney General Opinions
- Federal and State Court Decisions
- Official Office Interpretations
- Government As Purchaser (e.g., OPM)
- Government As Grant Funder (e.g., AHRQ)
- Government Research (e.g., NIH)
- Government Associations (e.g., NAIC, NGA, NCSL)
Health Plan Offerings: Governing Factors

- State/Regulations/ERISA fiduciary duties
- Plan documents
  - Summary of plan benefits (SPD) document
  - Insurance policy
  - Plan manuals
- Payer policies
  - Contract requirements
  - Medical director application of clinical guidelines
  - Health plan configuration/culture
- Geographic locations
Mental Health Parity

- Mental Health Parity and Addiction Equity Act
- Creating a level playing field between behavioral and med/surg
- Non-Quantitative Treatment Limitation (NQTL) testing and disclosure
Parity Resource Guide

We will revolutionize the way mental health care is delivered in America and create a future where diagnosis and treatment covers the brain and the body.

**HOW WE’LL DO IT**

The state of mental health in our country is one of great possibility. The Kennedy Forum is working to drive change in our healthcare system. We are partnering with mental health and addiction advocates, policymakers, and business leaders around key opportunities for progress, including provider accountability, integration and coordination, technology, and brain fitness and health.
Part IV: The Future of UM
Assessing the Future of UM

The Triple Aim

- Better Health
- Lower Cost
- Better Care

High Cost High Risk Care

Specialty Pharmacy & High Cost Medications

Mental Health Parity

Shared Decision Making
Assessing the Future of UM

Better Health

Lower Cost

Better Care

Patient-Centered, Preference & Direction

Patient & Caregiver

Collaborative Practice Framework
Part V:

RegQuest Overview
Online regulatory compliance guide
Survey information summarized in actionable buckets
Peer reviewed by regulators
Updated regularly
Conveniently formatted in both PDF and HTML versions
Topical updates/issue briefs
Convenient summary tables of key provisions
Annual subscription with easy login
Utilization Management Module

STATES & TERRITORIES
- A-E
- F-K
- L-M
- N
- O-T
- U-Z

ADDITIONAL RESOURCES
- Executive Summary
- Summary Tables
  - UM Regulations: State Scope & Applicability
  - Organizational Registration/Licensure Requirements
  - Key Program Requirements
  - Review and Appeals

thought leaders in
POPULATION HEALTH
Identifying implementation tactics
UM State Surveys

- Each survey covers:
  - Scope and Applicability
  - Regulatory Information
  - Registration/Licensure Requirements
  - Program Requirements
  - Reviewer Qualifications
  - Reviews and Appeals
Part VI: Wrap-Up
Concluding Observations & Questions

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