

## Michigan Office of Administrative Hearings and Rules

611 West Ottawa Street; 2nd Floor, Ottawa Building

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### REQUEST FOR RULEMAKING (RFR)

Under the Administrative Procedures Act (APA), 1969 PA 306, the agency that has the statutory authority to promulgate rules must electronically file an RFR with the Michigan Office of Administrative Hearings and Rules (MOAHR) before initiating any changes or additions to the rules. Please submit the RFR to [MOAHR-Rules@michigan.gov](mailto:MOAHR-Rules@michigan.gov).

#### 1. Agency Information:

Agency name:	Department of Insurance and Financial Services
Division/Bureau/Office:	Office of General Counsel
Name, title, phone number, and e-mail of <u>person completing this form</u> :	Sarah Wohlford, Deputy General Counsel, 517-284-8743, <a href="mailto:wohlfords@michigan.gov">wohlfords@michigan.gov</a>

#### 2. Rule Set Information:

Title of proposed rule set:	Utilization Review
Rule number(s) or range of numbers:	500.3101 – 500.3199
Included in agency's annual regulatory plan as rule to be processed in current year?	No.

#### 3. Estimated timetable for completion, or statutory deadline, if applicable:

As soon as possible. The utilization review program that the rules are intended to implement must be operational by **July 2, 2020**.

#### 4. Describe the general purpose of these rules, including any problem(s) the changes are intended to address:

These rules are mandatory under Section 3157a of the Insurance Code, MCL 500.3157a, which was added by Public Act 21 of 2019. Section 3157a was intended to help lower overall costs of automobile insurance by ensuring that persons injured in motor vehicle accidents receive an appropriate level of care. Under that section, DIFS is required to promulgate rules that will establish criteria or standards for utilization review that identify utilization of treatment, products, services, or accommodations under the no-fault automobile insurance statute that are above the usual range of utilization based on medically accepted standards. "Utilization review" is the initial evaluation by an insurer or the Michigan Catastrophic Claims Association of the appropriateness, based on medically accepted standards, of the level and the quality of treatment, products, services, or accommodations provided under personal protection insurance benefits. The rules must include a process by which medical providers submit records to, and comply with, any decision of, DIFS regarding utilization review.

#### 5. Cite the specific rule promulgation authority (i.e. agency director, commission, board, etc., listing all applicable statutory references. If the rule(s) are mandated by any applicable constitutional or statutory provision, please explain.

The rules are mandatory under Section 3157a(3) of the Insurance Code, MCL 500.3157a(3), which requires DIFS to promulgate rules to establish a utilization review program.

#### 6. Describe the extent to which the rule(s) conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level. Include applicable public act and statutory references.

These rules do not conflict with, duplicate, or exceed similar regulations, compliance requirements or other standards adopted at the state, regional, or federal level. The utilization review program is

a new requirement established by Public Act 21 of 2019, which substantially amended the provisions of the Insurance Code related to no-fault automobile insurance.

**7. Is the subject matter of the rule(s) currently contained in any guideline, manual, handbook, instructional bulletin, form with instructions, or operational memo?**

No.

**8. Explain whether the rule(s) will be promulgated under Sections 44 or 48 of the APA or the full rulemaking process:**

The rules will be promulgated under the full rulemaking process.

**9. Do the rule(s) incorporate the recommendations of any Advisory Rules Committee formed pursuant to Executive Order 2011-5? If yes, explain.**

No.

**10. Is there an applicable decision record as defined in Section 3(6) and required by Section 39(2) of the APA? If so, please attach the decision record.**

No.

**11. Reviewed by the following Departmental Regulatory Affairs Officer:**

Sarah Wohlford

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↓ To be completed by MOAHR ↓

Date RFR received: 9-10-2019

**Based on the information in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR.**

MOAHR assigned rule set number:	<b>2019-089 IF</b>
Date of approval:	<b>9/12/19</b>

**Based on the information in this RFR, MOAHR is not approving the RFR at this time.**

Date of disapproval:	
Explanation:	