

**Application for Certification in West Virginia as an Independent Review  
Organization to Review Long-term Care Benefit-Trigger Determinations**

Recent amendments West Virginia's long term rule, W. Va. Code St. R. §114-32, added a provision granting an insured the right to appeal an insurer's adverse benefit trigger determination to a certified independent review organization (IRO). To be certified, an IRO must submit an application to the West Virginia Offices of the Insurance Commissioner (WVOIC). Certification must be renewed every three years unless otherwise subjected to additional review, suspension, or revocation by the WVOIC.

**Instructions**

Applicants are encouraged to thoroughly review W. Va. Code St. R. §114-32-29 and Appendix H of the rule prior to submitting an application.

1. All questions must be answered with a narrative response and/or a response referencing an attachment. If any question is believed to be "not applicable," include a brief statement why the question does not apply. **Please note that all information provided as part of the application for initial certification or certification renewal is public information.**
2. Responses must be supported and accompanied by any related policy documents to fully demonstrate compliance with West Virginia-specific requirements. If national policy documents are submitted, they must be accompanied by West Virginia-specific addenda.
3. Please clearly label all attachments (and relevant portions within each attachment) and reference each attachment in the narrative response on the application.
4. The completed application may be submitted by fax or electronically as a Microsoft Word or pdf document.
5. Do not use any colored paper for printing application responses as this paper cannot be scanned.
6. Part V (Certification) must be signed and dated by an officer of the corporation with appropriate authority.

Completed Applications should be submitted to:

West Virginia Offices of the Insurance Commissioner  
Attn: M. Morris -- Long-term Care IRO Applications  
1124 Smith St.  
Charleston WV 25301

Questions may be directed to: Martha Morris at (304) 558-6279 ext. 3182 or  
[Martha.morris@wvinsurance.gov](mailto:Martha.morris@wvinsurance.gov)

## **I. General Information and Background**

1. Provide the Applicant's business name, business address and telephone/fax numbers, as it should appear on the WVOIC's list of Independent Review Organizations certified to review long-term care insurance benefit-trigger decisions.
2. Provide the names and resumes of all directors, officers and executives of the Applicant.
3. Provide the name, title, address, e-mail address and telephone/fax numbers of the contact person for this application.
4. If the Applicant is currently operating in West Virginia, indicate the length of time in operation.
5. List all of the insurance companies and third party administrators in West Virginia for which the Applicant currently performs any independent reviews or utilization reviews, including the start date of the contract for services and a brief description of the scope and nature of the review services performed for each.
7. List all of the governmental agencies in West Virginia for which the independent review organization is certified, registered, licensed or approved to perform independent reviews or utilization reviews, including the start date and a brief description of the scope and nature of the independent review services or utilization review services performed for each.
8. List all states in which the independent review organization has received state certification, licensure or any form of approval to conduct long-term care insurance benefit trigger independent reviews and in which an application for such certification/licensure/approval is pending. Provide a copy of any certifications/licenses.
9. Do any of the states listed in response to #8 require an IRO to meet substantially similar qualifications as those established by the National Association of Insurance Commissioners?
9. Is the Applicant currently approved, certified, or accredited for conducting independent reviews of long-term care insurance benefit trigger decisions by any nationally recognized accrediting organizations? If yes, provide the name and effective date of each and attach a copy of the approval, certification, or accreditation document.
10. Has Applicant ever been denied certification or accreditation by any other state or national agency? If yes, identify the accrediting organization and provide a brief explanation of the reason(s) for denial.
11. Has the Applicant ever been sanctioned by or had its authority suspended in another state? If yes, provide all states, dates of sanction(s), a brief explanation of the sanction(s), and remedial measures implemented as a result of the sanction(s).

## **II. Organization and Structure**

1. Provide a copy the Articles of Incorporation and Bylaws (or similar documents) that regulate the internal affairs of the Applicant.
2. If the Applicant is publicly held, provide the name of each stockholder or owner of more than ten percent of any stock or options.
3. Provide the name and type of business of all corporations and organizations owned or controlled by the Applicant, which own or control the Applicant, or which are affiliated with the Applicant. Describe the nature and extent of any such ownership or control or affiliation.
4. Describe how the Applicant will assure that neither it nor any of its employees, agents, or licensed health care professionals utilized is not a subsidiary of, owned or controlled by, an insurer or by a trade association of insurers of which the insured is a member.
5. Provide an organizational chart identifying the Applicant's relationship with all affiliated entities, including parent/holding companies and all subsidiaries.
6. Provide the following two organizational charts:
  - (a) Showing the Applicant's key management and administrative staff positions for independent review activities, including names and reporting relationships. The chart should include the CEO, Medical Director(s), Independent Review Director, etc.; and
  - (b) Depicting the independent review WVOIC, including the number and types of positions. If any positions are currently vacant, please identify and describe plans to fill.
7. Provide professional resumes or curriculum vitae for the key management and administrative staff at the location where the West Virginia long-term care insurance benefit trigger independent review business will be conducted.
8. Provide the number of personnel conducting long-term care insurance benefit trigger independent reviews (i.e. number of physicians, physical therapists and/or others) for West Virginia business.

## **III. Long-Term Care Insurance Benefit Trigger Independent Review Process (bracketed citations are corresponding sections of the amended rule)**

1. Demonstrate that the Applicant will perform independent reviews in an unbiased manner W. Va. Code St. R. §114-32-29.5.
2. Demonstrate that the Applicant has on staff or contracts with a qualified and licensed health care professional in an appropriate field, such as physical therapy, occupational therapy, neurology, physical medicine or rehabilitation, for determining an insured's functional or cognitive impairment to conduct the review W. Va. Code St. R. §114-32-29.5.(a).
3. Demonstrate how the Applicant will assure that it is not related to or affiliated with an entity

previously providing medical care to the insured W. Va. Code St. R. §114-32-29.5(b).

4. Demonstrate how the Applicant will assure that it utilizes a licensed health care professional who is not an employee of the insurer or related to the insured W. Va. Code St. R. §114-32-29.5(c).
5. Demonstrate how the Applicant will assure that it will not receive compensation of any type that is dependent on the outcome of the review and will not utilize a licensed health care professional who receives compensation of any type that is dependent on the outcome of the review W. Va. Code St. R. §114-32-29.5.(d)(e) and Appendix H.
6. Provide a description of the fees to be charged by it for independent reviews of a long-term care insurance benefit trigger decision. The fees shall be reasonable and customary for the type of long-term care insurance benefit trigger decision under review W. Va. Code St. R. §114-32-29.5.(f).
7. Provide the name of the medical director or health care professional responsible for the supervision and oversight of the independent review procedure W. Va. Code St. R. §114-32-29.5.(g).
8. Demonstrate that the Applicant has on staff or contracts with a licensed health care practitioner as defined under section 7702B(c)(4) of the Internal Revenue Code of 1986 who is qualified to certify that an individual is chronically ill for purposes of a qualified long-term care insurance contract W. Va. Code St. R. §114-32-29.5.(h).
9. Demonstrate how the Applicant will assure that it will comply with the review requirements for long-term care insurance benefit trigger decisions pursuant to the rule:
  - (a) Receive the request for independent review of a benefit trigger determination and confirm that it does not have any conflicts of interest with the insured, the insured's authorized representative, if applicable, or the insurer W. Va. Code St. R. §114-32-29.4(c)(2)(B).
  - (b) Suspend its review and the time period for review while the insurer considers any new or additional information not previously provided to the insurer W. Va. Code St. R. §114-32-29.4(c)(3)(A).
  - (c) Within five (5) business days of receipt of the request for independent review, notify the insured and the insured's authorized representative, if applicable, the insurer and the WVOIC it has accepted the independent review request and identify the type of licensed health care professional assigned to the review, and advise the insured or insured's authorized representative of the right to submit additional information and supporting documentation to the independent review organization within seven (7) days after receipt of the notice W. Va. Code St. R. §114-32-29.4(c)(1)(5).
  - (d) Provide copies of the documentation or information provided by the insured or the insured's authorized representative to the insurer for its review if it is not part of the information or documentation submitted by the insurer to the independent review

organization This should be done promptly to permit a response from the insurer in sufficient time to be considered before the independent review organization's decision is due to be issued W. Va. Code St. R. §114-32-29.4(c)(7).

- (e) Promptly end the review process upon notice by the insurer that it has overturned its benefit trigger determination based on new or additional information or documentation submitted by the insured or the insured's authorized representative W. Va. Code St. R. §114-32-29.4(c)(8)(B).
  - (f) Provide the insured, the insured's authorized representative, if applicable, the insurer and the WVOIC written notice of its decision within 30 calendar days from receipt of the referral (subject to any suspension as permitted by law) W. Va. Code St. R. §114-32-29.4(c)(9).
  - (g) If the decision overturns the insurer's decision, issue a decision that will W. Va. Code St. R. §114-32-29.4(c)(8)]:
    - (i) Establish the precise date within the specific period of time under review the benefit trigger was deemed to have been met W. Va. Code St. R. §114-32-29.4(c)(9)(A).
    - (ii) Specify the specific period of time under review for which the insurer declined eligibility, but during which the independent review organization deemed the benefit trigger to have been met W. Va. Code St. R. §114-32-29.4(c)(9)(C)
    - (iii) For qualified long-term care insurance contracts, provide a certification the insured is a chronically ill individual. The certification shall be made only by a licensed health care practitioner as defined in section 7702B(c)(4) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7702B(c)(4)) W. Va. Code St. R. §114-32-29.4(c)(9)(C).
    - (iv) Provide the rationale for each element of the decision W. Va. Code St. R. §114-32-29.4(c)(9).
10. Submit policies describing how the Applicant will comply with provisions of state and federal laws governing confidentiality, including the confidentiality of health information Appendix H, Paragraph j.
  11. Provide a program description describing and sequentially explaining the decision-making process, from the handling of the request to the issuance of a decision. The explanation should identify the level or type of staff responsible conducting each step in the process. Provide the name of the medical director or health care professional responsible for the supervision and oversight of the independent review procedure.
  12. Describe the Applicant's system for ensuring consistency in decision making, such as inter-rater reliability reviews etc.
  13. Describe the Applicant's process for ensuring and monitoring that all health care professionals on its staff and with whom it contracts to provide benefit trigger determinations reviews:

- a. hold a current unrestricted license or certification to practice a health care profession in the United States Appendix H, Paragraph a;
  - b. if a physician, holds a current certification by a recognized American medical specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment Appendix H, Paragraph b;
  - c. if not a physician, holds a current certification in the specialty in which that person is licensed, by a recognized American specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment Appendix H, Paragraph c.
  - d. have no history of disciplinary actions or sanctions including, but not limited to, the loss of staff privileges or any participation restriction taken or pending by any hospital or state or federal government regulatory agency Appendix H, Paragraph d.
14. Describe the Applicant's process for ensuring that neither it, nor any of its employees, agents, or licensed health care professionals it utilizes for benefit trigger determinations reviews:
  - a. receives compensation of any type that is dependent on the outcome of the review Appendix H, Paragraph e.
  - b. are in any manner related to, employed by or affiliated with the insurer, insured or with a person who previously provided medical care or longer term care services to the insured Appendix H, Paragraph f.
15. Provide a description of the qualifications of the reviewers retained to conduct independent review of long-term care insurance benefit trigger decisions, including the reviewer's current and past employment history, practice affiliations and a description of past experience with decisions relating to long-term care, functional capacity, dependency in activities of daily living, or in assessing cognitive impairment. Included in this description, specifically address past experience with reviews of tax qualified long-term care insurance contracts, demonstrating the ability to assess of the severity of cognitive impairment requiring substantial supervision to protect the individual from harm, or with assessing deficits in the ability to perform without substantial assistance from another person at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity Appendix H, Paragraph g.
16. Provide a description of the procedures employed to ensure that reviewers conducting independent reviews are appropriately licensed, registered or certified; trained in the principles, procedures and standards of the Applicant; and knowledgeable about the functional or cognitive impairments associated with the diagnosis and disease staging processes, including expected duration of such impairment, which is the subject of the independent review Appendix H, Paragraphs a, b & c.
17. Provide the number of reviewers retained by the Applicant and describe the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review (e.g. assessment of cognitive impairment or inability to perform activities of daily living due to loss of functional capacity) Appendix H, Paragraph i.

18. Provide a description of the independent review organization's quality assurance program Appendix H, Paragraph k.
19. Provide a description of the fees to be charged for independent reviews of long-term care insurance benefit-trigger decisions 29.5.f.

**IV. Long-Term Care Insurance Benefit Trigger  
Independent Review Reporting Requirements**

1. Describe how the Applicant will maintain written documentation establishing the date it receives a request for independent review, the date each review is conducted, the resolution, the date the resolution was communicated to the insurer and the insured, the name and professional status of the reviewer conducting the review in an easily accessible and retrievable format for the year in which it received the information plus two calendar years W. Va. Code St. R. §114-32-29.6(a).
2. Describe the documented measures the Applicant will take to appropriately safeguard the confidentiality of the records and prevent unauthorized use and disclosures under applicable Federal and State law. Provide a copy of the documentation of these measures W. Va. Code St. R. §114-32-29.6(b).
3. Provide an assurance that the Applicant will report annually to the WVOIC by June 1 in the aggregate and for each long-term care insurer the following W. Va. Code St. R. §114-32-29.6.(c):
  - (a) The total number of requests received for independent review of long-term care benefit trigger decisions W. Va. Code St. R. §114-32-29.6(c)(1).
  - (b) The total number of reviews conducted and the resolution of the reviews such as the number of reviews that upheld or overturned the long-term care insurer's determination the benefit trigger was not met W. Va. Code St. R. §114-32-29.6(c)(2).
  - (c) The number of reviews withdrawn prior to review W. Va. Code St. R. §114-32-29.6(c)(3).
  - (d) The percentage of reviews conducted within the prescribed timeframe set forth in subsection (c)(3) W. Va. Code St. R. §114-32-29.6(c)(4).
  - (e) Other information as the WVOIC may require W. Va. Code St. R. §114-32-29.6(c)(5).
3. Provide an assurance that the Applicant will report immediately to the WVOIC any change in its status which would cause it to cease meeting a qualification required of an independent review organization performing independent reviews of long-term care insurance benefit trigger decisions W. Va. Code St. R. §114-32-29(6)(d).

**V. Certification**

To qualify as an independent review organization for long-term care insurance benefit trigger decisions, I hereby certify that:

1. \_\_\_\_\_ [Name of Applicant] is authorized to do business in West Virginia as an IRO and is willing and able to participate, on a rotational basis, in an independent review process that satisfies all requirements of W. Va. Code St. R. §114-32-29.
2. All data, information, and statements in this application of \_\_\_\_\_ [Name of Applicant] for certification are true and correct to the best of my knowledge, information and belief.
3. I am an officer of \_\_\_\_\_ [Name of Applicant] and am duly authorized to execute this certification on its behalf.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Date