§ 3217-j. Utilization review determinations for medically fragile children. (a) Notwithstanding any inconsistent provision of the insurer's clinical standards, the insurer, and any utilization review agent under contract with such insurer, shall administer and apply the clinical standards (and make determinations of medical necessity) regarding medically fragile children in accordance with the requirements of this section and any regulations with special considerations and processes for utilization review related to medically fragile children.

(b) Insurers shall undertake the following with respect to medically fragile children, and as applicable, shall ensure that their contracted utilization review agents undertake the following with respect to medically fragile children:

(1) Consider as medically necessary all covered services that assist medically fragile children in reaching their maximum functional capacity, taking into account the appropriate functional capacities of children of the same age.

(2) Shall not base determinations solely upon review standards applicable to (or designed for) adults to medically fragile children. Determinations shall take into consideration the specific needs of the child and the circumstances pertaining to their growth and development.

(3) Accommodate unusual stabilization and prolonged discharge plans for medically fragile children, as appropriate. Insurers, and as applicable their contracted utilization review agents, shall consider when developing and approving discharge plans issues including sudden reversals of condition or progress, which may make discharge decisions uncertain or more prolonged than for other children or adults.

(4) It is the insurer's network management responsibility under a managed care health insurance contract as defined in subsection (c) of section four thousand eight hundred one of this chapter to identify an available provider of needed covered services, as determined through a person centered care plan, to effect safe discharge from a hospital or other facility.

(5) This section does not limit any other rights a medically fragile child may have, including the right to appeal the denial of out of network coverage at in-network cost sharing levels where an appropriate in-network provider is not available pursuant to subsection a-two of section four thousand nine hundred four of this chapter.

(6) Insurers shall contract with providers with demonstrated expertise in caring for the medically fragile children. Network providers shall refer to appropriate network community and facility providers for covered services to meet the needs of the child or seek authorization from the insurer for out-of-network providers when participating providers cannot meet the child's needs.

(c) In the event an insurer enters into a participation agreement with a specialty care center for medically fragile children in this state, the requirements of this section shall apply to that participation agreement and to all claims submitted to, or payments made by, any other insurers, health maintenance organizations or payors making payment to the specialty care center pursuant to the provisions of that participation agreement.