



**Legislative Council Staff**  
*Nonpartisan Services for Colorado's Legislature*

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# Final Fiscal Note

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**Drafting Number:** LLS 22-0308 **Date:** August 29, 2022  
**Prime Sponsors:** Sen. Kirkmeyer; Ginal **Bill Status:** Deemed Lost  
Rep. Geitner; Bird **Fiscal Analyst:** Annie Scott | 303-866-5851  
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**Bill Topic:** **PRIOR AUTHORIZATION EXEMPTION HEALTH-CARE PROVIDER**

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**Summary of Fiscal Impact:**

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

This bill would have required that qualified health-care providers be offered at least one alternative to prior authorization by insurance carriers or private utilization review organizations. The bill would have increased state expenditures on an ongoing basis beginning in FY 2023-24.

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**Appropriation Summary:** No appropriation would have been required.

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**Fiscal Note Status:** The fiscal note reflects the introduced bill as amended by the Senate Health and Human Services Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

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**Table 1**  
**State Fiscal Impacts Under SB 22-078**

		<b>Budget Year</b> <b>FY 2022-23</b>	<b>Out Year</b> <b>FY 2023-24</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	-	\$25,748
	Centrally Appropriated	-	\$7,205
	<b>Total Expenditures</b>	-	<b>\$32,953</b>
	<b>Total FTE</b>	-	<b>0.3 FTE</b>
<b>Diversion</b>	General Fund	-	(\$32,953)
	Cash Funds	-	\$32,953
	<b>Net Diversion</b>	-	<b>\$0</b>

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## **Summary of Legislation**

Under current law, an insurance carrier or private utilization review organization may offer a provider with at least an 80 percent approval rate of prior authorization approvals, an exemption from prior authorization requirements. As of January 1, 2024, this bill requires the provision of an alternative to prior authorization, and redefines the requirements of a qualified provider, as described below.

**Provider qualifications.** This bill requires that a carrier or private utilization review organization provide a prior authorization alternative to health care providers with certain qualifications, including:

- continuous participation for the preceding 12 months; and
- at least a 95 percent approval rate of prior authorization requests over the preceding 12 months.

**Alternatives to prior authorization.** This bill requires that a carrier or private utilization review organization offer a qualified provider at least one alternative to prior authorization, including:

- an exemption from prior authorization requirements;
- an incentive award that reduces wait time or administrative burden on a covered individual; or
- any other innovative program designed to reward the provider for compliance with prior authorization requirements, or that reduces wait time or administrative burden on a covered individual.

In addition, at least annually, a carrier or private utilization review organization must reexamine a provider's status for exemption from or alternative to prior authorization requirements, inform the provider of their status, and provide information concerning the data that was considered as part of the reexamination.

## **Background**

Prior authorization is a process by which a health insurance carrier reviews a request for certain health care services or drugs before consenting to cover the proposed treatment. Upon receiving a request, a carrier can approve or deny the request, or request additional information. A carrier can employ this practice for a variety of reasons, including as a cost-control mechanism or to verify medical necessity.

## **State Diversion**

The bill diverts \$32,953 from the General Fund to the Division of Insurance Cash Fund in FY 2023-24. This revenue diversion occurs because the bill increases costs in the Division of Insurance (DOI), which is funded with premium tax revenue that would otherwise be credited to the General Fund.

## Assumptions

The fiscal note assumes that the bill will generate 200 complaints per fiscal year and that each complaint will require 5 hours of DOI staff time to:

- take complaint information from providers;
- determine whether the complaint is a violation of statute;
- communicate with the carrier, private utilization review organization, or pharmacy benefit management firm; and
- resolve the complaint.

The fiscal note also assumes a call volume of 100 calls per month lasting an average of 15 minutes each. If additional information becomes available to clarify these assumptions, the fiscal note will be revised to reflect the new information.

## State Expenditures

The bill increases state expenditures in the DOI in DORA by \$32,953 and 0.3 FTE in FY 2023-24 from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under SB 22-078**

<b>Cost Components</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	-	\$25,748
Operating Expenses	-	-
Capital Outlay Costs	-	\$6,200
Centrally Appropriated Costs <sup>1</sup>	-	\$7,205
<b>Total</b>	-	<b>\$32,953</b>
<b>Total FTE</b>	-	<b>0.3 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** Beginning in FY 2023-24, based on the assumptions listed above, the DOI requires 0.5 FTE to address complaints and inquiries generated by the bill. This has been prorated to 0.3 FTE in FY 2023-24 to account for the January 1, 2024, deadline for offering prior authorization alternatives. A pattern of complaints against an entity might require further investigation through a market conduct exam which can be accomplished within existing resources.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## **Effective Date**

The bill was deemed lost by the House of Representatives on May 12, 2022.

## **State and Local Government Contacts**

Connect for Health Colorado  
Information Technology

Health Care Policy and Financing  
Regulatory Agencies