

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 21, 2024
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB24-1149 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 4, line 6, after "(2)(c)," insert "(3)(a)(I)," and
2 after "**add**" insert "(3)(c)(III), (3.5),".
- 3 Page 4, lines 6 and 7, strike "(4)(c), (4)(d), and (7)(g)" and substitute "and
4 (4)(c)".
- 5 Page 5, strike line 19 and substitute the following:
6 "(B.5) THE TOTAL NUMBER OF PRIOR".
- 7 Page 5, line 22 strike "AND".
- 8 Page 5, after line 22, insert:
9 "(C) THE reason for THE denial IN EACH OF THE CATEGORIES
10 SPECIFIED IN SUBSECTION (2)(c)(I)(A) OF THIS SECTION, WITH THE DENIAL
11 REASONS SORTED BY CATEGORIES DEFINED BY RULE; and".
- 12 Page 6, line 16, strike "REQUESTS ARE APPROVED".
- 13 Page 6, strike line 17.
- 14 Page 6, line 18, strike "AUTHORIZATION REQUIREMENT".
- 15 Page 6, line 19, after "NOR" insert "SUBSTANTIALLY", and strike
16 "SPENDING TO A DEGREE" and substitute "SPENDING".
- 17 Page 6, strike line 20.
- 18 Page 6, line 21, strike "ORGANIZATION".

1 Page 6, line 22, after "ATTEST" insert "TO THE COMMISSIONER".

2 Page 7, line 14, strike "TO IMPLEMENT" and substitute "TO:
3 (A) IMPLEMENT".

4 Page 7, line 18, strike "CARRIERS." and substitute "CARRIERS; AND
5 (B) DEFINE CATEGORIES OF PRIOR AUTHORIZATION REQUEST
6 DENIALS FOR PURPOSES OF SUBSECTION (2)(c)(I)(C) OF THIS SECTION."

7 Page 7, line 20, strike "(c) (II) If" and substitute "(a) Except as provided
8 in subsection (3)(b) of this section, a prior authorization request is
9 deemed granted if a carrier or organization fails to:

10 (I) (A) Notify the provider and covered person, within five
11 business days after receipt of the request, that the request is approved,
12 denied, or incomplete and INDICATE: If DENIED, WHAT RELEVANT
13 ALTERNATIVE SERVICES OR TREATMENTS MAY BE A COVERED BENEFIT OR
14 ARE REQUIRED BEFORE APPROVAL OF THE DENIED SERVICE OR
15 TREATMENT; OR IF incomplete, ~~indicate~~ the specific additional
16 information, consistent with criteria posted pursuant to subsection (2)(a)
17 of this section, that is required to process the request; or

18 (B) Notify the provider and covered person, within five business
19 days after receiving the additional information required by the carrier or
20 organization pursuant to subsection (3)(a)(I)(A) of this section, that the
21 request is approved or denied AND, IF DENIED, INDICATE WHAT RELEVANT
22 ALTERNATIVE SERVICES OR TREATMENTS MAY BE A COVERED BENEFIT OR
23 ARE REQUIRED BEFORE APPROVAL OF THE DENIED SERVICE OR
24 TREATMENT; and

25 (c) (II) If".

26 Page 7, line 24, strike "must include" and substitute "must:
27 (A) Include".

28 Page 7, line 27, strike "MEDICATIONS" and substitute "TREATMENTS".

29 Page 8, strike line 1 and substitute: "HEALTH BENEFIT PLAN; OR

30 (B) IN THE CASE OF THE DENIAL OF A PRIOR AUTHORIZATION
31 REQUEST FOR A PRESCRIPTION DRUG, SPECIFY WHICH PRESCRIPTION DRUGS
32 AND DOSAGES IN THE SAME CLASS AS THE PRESCRIPTION DRUG FOR WHICH
33 THE PRIOR AUTHORIZATION REQUEST WAS DENIED ARE COVERED
34 PRESCRIPTION DRUGS UNDER THE HEALTH BENEFIT PLAN.

35 (III) A CARRIER'S, ORGANIZATION'S, OR PHARMACY BENEFIT
36 MANAGER'S COMPLIANCE".

1 Page 8, after line 3 insert:

2 "(3.5) (a) STARTING JANUARY 1, 2026, A CARRIER OR
3 ORGANIZATION SHALL HAVE, MAINTAIN, AND USE A PRIOR AUTHORIZATION
4 APPLICATION PROGRAMMING INTERFACE THAT AUTOMATES THE PRIOR
5 AUTHORIZATION PROCESS TO ENABLE A PROVIDER TO:

6 (I) DETERMINE WHETHER PRIOR AUTHORIZATION IS REQUIRED FOR
7 A HEALTH-CARE SERVICE;

8 (II) IDENTIFY PRIOR AUTHORIZATION INFORMATION AND
9 DOCUMENTATION REQUIREMENTS; AND

10 (III) FACILITATE THE EXCHANGE OF PRIOR AUTHORIZATION
11 REQUESTS AND DETERMINATIONS FROM THE PROVIDER'S ELECTRONIC
12 HEALTH RECORDS OR PRACTICE MANAGEMENT SYSTEMS THROUGH SECURE
13 ELECTRONIC TRANSMISSION.

14 (b) A CARRIER'S OR ORGANIZATION'S APPLICATION PROGRAMMING
15 INTERFACE MUST MEET THE MOST RECENT STANDARDS AND
16 IMPLEMENTATION SPECIFICATIONS ADOPTED BY THE SECRETARY OF THE
17 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS
18 SPECIFIED IN 45 CFR 170.215 (a).

19 (c) IF A PROVIDER SUBMITS A PRIOR AUTHORIZATION REQUEST
20 THROUGH THE CARRIER'S OR ORGANIZATION'S APPLICATION PROGRAMMING
21 INTERFACE, THE CARRIER OR ORGANIZATION SHALL ACCEPT AND RESPOND
22 TO THE REQUEST THROUGH THE INTERFACE."

23 Page 10, strike lines 5 through 13 and substitute "RESOLUTION, BINDING
24 ARBITRATION AS SPECIFIED IN SUBSECTION (4)(b)(VI) OF THIS SECTION.

25 (VI) IF A PROVIDER REQUESTS BINDING ARBITRATION PURSUANT
26 TO THE PROCEDURES A CARRIER OR AN ORGANIZATION DEVELOPS UNDER
27 SUBSECTION (4)(b)(V)(B) OF THIS SECTION, THE FOLLOWING PROVISIONS
28 GOVERN THE ARBITRATION PROCEDURE:

29 (A) THE PROVIDER AND CARRIER OR ORGANIZATION SHALL
30 JOINTLY SELECT AN ARBITRATOR FROM THE LIST OF ARBITRATORS
31 APPROVED PURSUANT TO SECTION 10-16-704 (15)(b). NEITHER THE
32 PROVIDER NOR THE CARRIER OR ORGANIZATION IS REQUIRED TO NOTIFY
33 THE DIVISION OF THE ARBITRATION OR OF THE SELECTED ARBITRATOR.

34 (B) THE SELECTED ARBITRATOR SHALL DETERMINE THE
35 PROVIDER'S ELIGIBILITY TO PARTICIPATE IN THE CARRIER'S OR
36 ORGANIZATION'S PROGRAM BASED ON THE PROGRAM CRITERIA DEVELOPED
37 PURSUANT TO SUBSECTION (4)(b)(II) OF THIS SECTION;

38 (C) WITHIN THIRTY DAYS AFTER THE DATE THE ARBITRATOR
39 ACCEPTS THE MATTER, THE PROVIDER AND THE CARRIER OR
40 ORGANIZATION SHALL SUBMIT TO THE ARBITRATOR WRITTEN MATERIALS
41 IN SUPPORT OF THEIR RESPECTIVE POSITIONS;

1 (D) THE ARBITRATOR MAY RENDER A DECISION BASED ON THE
2 WRITTEN MATERIALS SUBMITTED PURSUANT TO SUBSECTION (4)(b)(VI)(C)
3 OF THIS SECTION OR MAY SCHEDULE A HEARING, LASTING NOT LONGER
4 THAN ONE DAY, FOR THE PROVIDER AND CARRIER OR ORGANIZATION TO
5 PRESENT EVIDENCE;
6 (E) WITHIN THIRTY DAYS AFTER THE DATE THE ARBITRATOR
7 RECEIVES THE WRITTEN MATERIALS OR, IF A HEARING IS CONDUCTED, THE
8 DATE OF THE HEARING, THE ARBITRATOR SHALL ISSUE A WRITTEN
9 DECISION STATING WHETHER THE PROVIDER IS ELIGIBLE FOR THE
10 PROGRAM; AND
11 (F) IF THE ARBITRATOR OVERTURNS THE CARRIER'S OR
12 ORGANIZATION'S FAILURE OR REFUSAL TO INCLUDE THE PROVIDER IN THE
13 PROGRAM, THE CARRIER OR ORGANIZATION SHALL PAY THE ARBITRATOR'S
14 FEES AND COSTS, AND IF THE ARBITRATOR AFFIRMS THE CARRIER'S OR
15 ORGANIZATION'S FAILURE OR REFUSAL TO INCLUDE THE PROVIDER IN THE
16 PROGRAM, THE PROVIDER SHALL PAY THE ARBITRATOR'S FEES AND
17 COSTS."

18 Page 10, strike lines 14 through 19.

19 Reletter succeeding paragraph accordingly.

20 Page 11, line 26, strike "(4)(d)," and substitute "(4)(c),".

21 Page 12, strike lines 23 through 27.

22 Page 13, strike lines 1 through 4.

23 Page 13, line 5, after "**amend**" insert "(2)(a)(II)(A), (2)(c)(II)(A), (3)(a)
24 introductory portion, (3)(a)(I), (3)(a)(VI),".

25 Page 13, line 6, after "**repeal**" insert "(3)(a)(II) and".

26 Page 13, line 6, after "**add**" insert "(3.3),".

27 Page 13, line 7, strike "(6.5), and (8)(c)" and substitute "and (6.5)".

28 Page 13, strike line 9 and substitute "**of commissioner - definitions -**
29 **repeal.** (2) (a) Except as provided in subsection (2)(b) or (2)(c) of this
30 section, a prior authorization request is deemed granted if a carrier or
31 pharmacy benefit management firm fails to:

32 (II) For prior authorization requests submitted electronically:

33 (A) Notify the prescribing provider, within two business days after

1 receipt of the request, that the request is approved, denied, or incomplete,
2 and if incomplete, indicate the specific additional information, consistent
3 with criteria posted pursuant to ~~subparagraph (H) of paragraph (a) of~~
4 ~~subsection (3)~~ SUBSECTION (3.5)(a) of this section, that is required to
5 process the request; or

6 (c) For nonurgent prior authorization requests related to a covered
7 person's HIV prescription drug coverage, the prior authorization request
8 is deemed granted if a carrier or pharmacy benefit management firm fails
9 to:

10 (II) For prior authorization requests submitted electronically:

11 (A) Notify the prescribing provider within one business day after
12 receipt of the request that the request is approved, denied, or incomplete,
13 and if incomplete, indicate the specific additional information, consistent
14 with criteria posted pursuant to ~~subsection (3)(a)(H)~~ SUBSECTION (3.5)(a)
15 of this section, that is required to process the request; or

16 (3) (a) ~~On or before July 31, 2014,~~ The commissioner shall
17 develop, by rule, a uniform prior authorization process that:

18 (I) Is made available electronically by the carrier or pharmacy
19 benefit management firm, ~~but that~~ does not require the prescribing
20 provider to submit a prior authorization request electronically, AND
21 SATISFIES THE REQUIREMENTS OF SUBSECTION (3.3) OF THIS SECTION;

22 (II) ~~Requires each carrier and pharmacy benefit management firm~~
23 ~~to make the following available and accessible in a centralized location~~
24 ~~on its website:~~

25 (A) ~~Its prior authorization requirements and restrictions, including~~
26 ~~a list of drugs that require prior authorization;~~

27 (B) ~~Written clinical criteria that are easily understandable to the~~
28 ~~prescribing provider and that include the clinical criteria for~~
29 ~~reauthorization of a previously approved drug after the prior authorization~~
30 ~~period has expired; and~~

31 (C) ~~The standard form for submitting requests;~~

32 (VI) Requires carriers and pharmacy benefit management firms,
33 when notifying a prescribing provider of its decision to deny a prior
34 authorization request, to include THE INFORMATION REQUIRED BY SECTION
35 10-16-112.5 (3)(c)(II) AND a notice that the covered person has a right to
36 appeal the adverse determination pursuant to sections 10-16-113 and
37 10-16-113.5.

38 (b) In developing the".

39 Page 13, after line 12 insert:

40 "(3.3) STARTING JANUARY 1, 2026, IF A PROVIDER SUBMITS A
41 PRIOR AUTHORIZATION REQUEST TO A CARRIER OR PBM THROUGH A
42 SECURE ELECTRONIC TRANSMISSION SYSTEM THE CARRIER OR PBM USES

1 THAT COMPLIES WITH THE MOST RECENT VERSION OF THE NATIONAL
2 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD, OR ITS
3 SUCCESSOR STANDARD, AND 21 CFR 1311, THE CARRIER OR PBM SHALL
4 ACCEPT AND RESPOND TO THE REQUEST THROUGH THE SECURE ELECTRONIC
5 TRANSMISSION SYSTEM."

6 Page 13, after line 18 insert:

7 "(I) THE CARRIER'S PRIOR AUTHORIZATION REQUIREMENTS AND
8 RESTRICTIONS, INCLUDING A LIST OF DRUGS THAT REQUIRE PRIOR
9 AUTHORIZATION;

10 (II) WRITTEN CLINICAL CRITERIA THAT ARE EASILY
11 UNDERSTANDABLE TO THE PRESCRIBING PROVIDER AND THAT INCLUDE THE
12 CLINICAL CRITERIA FOR REAUTHORIZATION OF A PREVIOUSLY APPROVED
13 DRUG AFTER THE PRIOR AUTHORIZATION PERIOD HAS EXPIRED;

14 (III) THE STANDARD FORM FOR SUBMITTING PRIOR AUTHORIZATION
15 REQUESTS;".

16 Renumber succeeding subparagraphs accordingly.

17 Page 15, line 10, strike "(5)(b), (5)(c)," and substitute "(5)(b)".

18 Page 15, line 18, after "PLAN" insert "MORE THAN ONCE EVERY THREE
19 YEARS".

20 Page 15, after line 22 insert:

21 "(II) THIS SUBSECTION (5)(b) DOES NOT APPLY IF:

22 (A) THERE IS EVIDENCE THAT THE AUTHORIZATION WAS OBTAINED
23 FROM THE CARRIER OR PBM BASED ON FRAUD OR MISREPRESENTATION;

24 (B) FINAL ACTION BY THE FDA OR OTHER REGULATORY AGENCIES,
25 OR THE MANUFACTURER, REMOVES THE CHRONIC MAINTENANCE DRUG
26 FROM THE MARKET, LIMITS ITS USE IN A MANNER THAT AFFECTS THE
27 AUTHORIZATION, OR COMMUNICATES A PATIENT SAFETY ISSUE THAT
28 WOULD AFFECT THE AUTHORIZATION ALONE OR IN COMBINATION WITH
29 OTHER AUTHORIZATIONS; OR

30 (C) A GENERIC EQUIVALENT OR DRUG THAT IS BIOSIMILAR, AS
31 DEFINED IN 42 U.S.C. SEC. 262 (i)(2), TO THE PRESCRIBED CHRONIC
32 MAINTENANCE DRUG IS ADDED TO THE CARRIER'S OR PBM'S DRUG
33 FORMULARY.

34 (III) NOTHING IN THIS SUBSECTION (5)(b) REQUIRES A CARRIER OR
35 PBM TO PAY FOR A BENEFIT:

36 (A) THAT IS NOT A COVERED BENEFIT UNDER THE HEALTH BENEFIT
37 PLAN; OR

38 (B) IF THE PATIENT IS NO LONGER A COVERED PERSON UNDER THE

1 HEALTH BENEFIT PLAN ON THE DATE THE CHRONIC MAINTENANCE DRUG
2 WAS PRESCRIBED, DISPENSED, ADMINISTERED, OR DELIVERED."

3 Renumber succeeding subparagraph accordingly.

4 Page 15, strike lines 25 through 27.

5 Page 16, strike lines 1 through 3.

6 Page 17, line 14, strike "(A)" and substitute "(I)".

7 Page 17, line 17, strike "(B)" and substitute "(II)".

8 Page 17, strike lines 18 through 25 and substitute "RESOLUTION, BINDING
9 ARBITRATION AS SPECIFIED IN SUBSECTION (5.5)(e) OF THIS SECTION.

10 (e) IF A PROVIDER REQUESTS BINDING ARBITRATION PURSUANT TO
11 THE PROCEDURES A CARRIER OR A PBM DEVELOPS UNDER SUBSECTION
12 (5.5)(d)(II) OF THIS SECTION, THE FOLLOWING PROVISIONS GOVERN THE
13 ARBITRATION PROCEDURE:

14 (I) THE PROVIDER AND CARRIER OR PBM SHALL JOINTLY SELECT
15 AN ARBITRATOR FROM THE LIST OF ARBITRATORS APPROVED PURSUANT TO
16 SECTION 10-16-704 (15)(b). NEITHER THE PROVIDER NOR THE CARRIER OR
17 PBM IS REQUIRED TO NOTIFY THE DIVISION OF THE ARBITRATION OR OF
18 THE SELECTED ARBITRATOR.

19 (II) THE SELECTED ARBITRATOR SHALL DETERMINE THE
20 PROVIDER'S ELIGIBILITY TO PARTICIPATE IN THE CARRIER'S OR PBM'S
21 PROGRAM BASED ON THE PROGRAM CRITERIA DEVELOPED PURSUANT TO
22 SUBSECTION (5.5)(a) OF THIS SECTION;

23 (III) WITHIN THIRTY DAYS AFTER THE DATE THE ARBITRATOR
24 ACCEPTS THE MATTER, THE PROVIDER AND THE CARRIER OR PBM SHALL
25 SUBMIT TO THE ARBITRATOR WRITTEN MATERIALS IN SUPPORT OF THEIR
26 RESPECTIVE POSITIONS;

27 (IV) THE ARBITRATOR MAY RENDER A DECISION BASED ON THE
28 WRITTEN MATERIALS SUBMITTED PURSUANT TO SUBSECTION (5.5)(e)(III)
29 OF THIS SECTION OR MAY SCHEDULE A HEARING, LASTING NOT LONGER
30 THAN ONE DAY, FOR THE PROVIDER AND CARRIER OR PBM TO PRESENT
31 EVIDENCE;

32 (V) WITHIN THIRTY DAYS AFTER THE DATE THE ARBITRATOR
33 RECEIVES THE WRITTEN MATERIALS OR, IF A HEARING IS CONDUCTED, THE
34 DATE OF THE HEARING, THE ARBITRATOR SHALL ISSUE A WRITTEN
35 DECISION STATING WHETHER THE PROVIDER IS ELIGIBLE FOR THE
36 PROGRAM; AND

37 (VI) IF THE ARBITRATOR OVERTURNS THE CARRIER'S OR PBM'S

1 FAILURE OR REFUSAL TO INCLUDE THE PROVIDER IN THE PROGRAM, THE
2 CARRIER OR PBM SHALL PAY THE ARBITRATOR'S FEES AND COSTS, AND IF
3 THE ARBITRATOR AFFIRMS THE CARRIER'S OR PBM'S FAILURE OR REFUSAL
4 TO INCLUDE THE PROVIDER IN THE PROGRAM, THE PROVIDER SHALL PAY
5 THE ARBITRATOR'S FEES AND COSTS."

6 Page 18, strike lines 15 through 24.

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