

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0308.02 Christy Chase x2008

SENATE BILL 22-078

SENATE SPONSORSHIP

Kirkmeyer and Ginal, Moreno

HOUSE SPONSORSHIP

Geitner and Bird,

Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Insurance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING ALTERNATIVES TO HEALTH INSURER PRIOR**
102 **AUTHORIZATION REQUIREMENTS FOR HEALTH-CARE PROVIDERS**
103 **THAT ACHIEVE A SPECIFIED APPROVAL RATE ON PRIOR**
104 **AUTHORIZATION REQUESTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

With regard to health-care services, **section 1** of the bill requires a health insurance carrier (carrier) or private utilization review organization, as applicable, to offer a provider with at least a 95%

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 24, 2022

SENATE
Amended 2nd Reading
February 17, 2022

approval rate of prior authorization requests over the prior 12 months an alternative to prior authorization requirements, including an exemption from the requirements, incentive awards, or other innovative programs, to reward provider compliance.

With regard to drug benefits, **section 2** requires a carrier or pharmacy benefit management firm, as applicable, to offer the same types of alternatives to prior authorization requirements to a provider who has at least a 95% approval rate of prior authorization requests over the prior 12 months.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-112.5, amend
3 (7)(e); and add (4)(b)(II)(C) and (4)(c) as follows:

4 **10-16-112.5. Prior authorization for health-care services -**
5 **disclosures and notice - determination deadlines - criteria - limits and**
6 **exceptions - definitions - rules - repeal. (4) Criteria, limits, and**
7 **exceptions. (b) (II) (C) THIS SUBSECTION (4)(b)(II) IS REPEALED,**
8 **EFFECTIVE JANUARY 1, 2024.**

9 (c) (I) ON AND AFTER JANUARY 1, 2024, A CARRIER OR
10 ORGANIZATION SHALL OFFER A QUALIFIED PROVIDER AT LEAST ONE
11 ALTERNATIVE TO PRIOR AUTHORIZATION, INCLUDING:

12 (A) AN EXEMPTION FROM PRIOR AUTHORIZATION REQUIREMENTS;

13 (B) AN INCENTIVE AWARDED TO THE PROVIDER THAT REDUCES
14 THE WAIT TIME FOR OR ADMINISTRATIVE BURDEN ON A COVERED PERSON
15 TO RECEIVE THE REQUESTED HEALTH-CARE SERVICE; OR

16 (C) ANY OTHER INNOVATIVE PROGRAM OF THE CARRIER'S OR
17 ORGANIZATION'S DESIGN TO REWARD PROVIDER COMPLIANCE WITH THE
18 CARRIER'S OR ORGANIZATION'S PRIOR AUTHORIZATION REQUIREMENTS
19 AND THAT REDUCES THE WAIT TIME FOR OR ADMINISTRATIVE BURDEN ON
20 A COVERED PERSON TO RECEIVE THE REQUESTED HEALTH-CARE SERVICE.

1 (II) A PROVIDER IS A QUALIFIED PROVIDER FOR PURPOSES OF
2 SUBSECTION (4)(c)(I) OF THIS SECTION IF THE PROVIDER:

3 (A) IS A PARTICIPATING PROVIDER AND HAS BEEN A PARTICIPATING
4 PROVIDER CONTINUOUSLY FOR AT LEAST THE IMMEDIATELY PRECEDING
5 TWELVE MONTHS; AND

6 (B) OVER THE IMMEDIATELY PRECEDING TWELVE MONTHS, HAS AT
7 LEAST A NINETY PERCENT APPROVAL RATE ON AT LEAST FIFTY PRIOR
8 AUTHORIZATION REQUESTS SUBMITTED FOR COVERED PERSONS UNDER A
9 HEALTH BENEFIT PLAN OFFERED BY THE CARRIER.

10 (III) NEITHER A CARRIER NOR AN ORGANIZATION IS REQUIRED TO
11 OFFER AN ALTERNATIVE TO PRIOR AUTHORIZATION TO A PROVIDER THAT
12 IS NOT QUALIFIED PURSUANT TO SUBSECTION (4)(c)(II) OF THIS SECTION,
13 INCLUDING A PROVIDER THAT HAS NOT SUBMITTED PRIOR AUTHORIZATION
14 REQUESTS TO THE CARRIER OR ORGANIZATION FOR AT LEAST TWELVE
15 MONTHS.

16 (IV) AT LEAST ANNUALLY, A CARRIER OR ORGANIZATION SHALL
17 REEXAMINE A PROVIDER'S PRESCRIBING OR ORDERING PATTERNS AND
18 REEVALUATE WHETHER THE PROVIDER IS A QUALIFIED PROVIDER FOR
19 PURPOSES OF AN EXEMPTION FROM OR OTHER ALTERNATIVE TO PRIOR
20 AUTHORIZATION REQUIREMENTS PURSUANT TO SUBSECTION (4)(c)(I) OF
21 THIS SECTION.

22 (V) THE CARRIER OR ORGANIZATION SHALL INFORM THE PROVIDER
23 OF THE PROVIDER'S STATUS AS A QUALIFIED PROVIDER AND PROVIDE ALL
24 OF THE DATA CONSIDERED AS PART OF ITS INITIAL EXAMINATION OR
25 REEXAMINATION OF THE PROVIDER'S PRESCRIBING OR ORDERING PATTERNS
26 FOR THE TWELVE-MONTH PERIOD OF REVIEW. DISAGREEMENTS REGARDING
27 A PROVIDER'S STATUS AS A QUALIFIED PROVIDER MUST BE RESOLVED IN

1 ACCORDANCE WITH ANY APPLICABLE CONTRACT PROVISIONS.

2

3 (7) Definitions. As used in this section:

4 (e) "Private utilization review organization" or "organization" has
5 the same meaning as set forth MEANS A PRIVATE UTILIZATION REVIEW
6 ORGANIZATION, AS DEFINED in section 10-16-112 (1)(a), THAT HAS A
7 CONTRACT WITH AND PERFORMS PRIOR AUTHORIZATION ON BEHALF OF A
8 CARRIER. ==

9 **SECTION 2. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2022 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.