

10248

I N A S S E M B L Y

May 16, 2012

Introduced by M. of A. P. RIVERA, GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to prior authorization for prescription drug benefits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivisions 2 and 7 of section 4903 of the public health
2 law, subdivision 2 as added by chapter 705 of the laws of 1996 and
3 subdivision 7 as added by chapter 586 of the laws of 1998, are amended
4 and a new subdivision 8 is added to read as follows:
5 2. A utilization review agent shall make a utilization review determi-
6 nation involving health care services which require pre-authorization
7 and provide notice of a determination to the enrollee or enrollee's
8 designee and the enrollee's health care provider by telephone and in
9 writing within three business days of receipt of the necessary informa-
10 tion. A UTILIZATION REVIEW AGENT SHALL MAKE A UTILIZATION REVIEW DETER-
11 MINATION INVOLVING A REQUEST FOR PRESCRIPTION DRUG BENEFITS WITHIN TWO
12 BUSINESS DAYS OF RECEIPT OF THE NECESSARY INFORMATION, AND WITHIN ONE
13 DAY IF THE REQUEST IS SUBMITTED BY ELECTRONIC MEANS. AS SET FORTH IN
14 SUBDIVISION EIGHT OF THIS SECTION, SUCH REQUEST FOR PRESCRIPTION DRUG
15 BENEFITS SHALL BE ON A FORM TO BE DEVELOPED BY THE DEPARTMENT AND THE
16 DEPARTMENT OF FINANCIAL SERVICES. A HEALTH CARE PLAN SHALL ACCEPT SUCH
17 FORM AS SUFFICIENT TO REQUEST PRIOR AUTHORIZATION FOR PRESCRIPTION DRUG
18 BENEFITS.
19 7. Failure by the utilization review agent to make a determination
20 within the time periods prescribed in this section shall be deemed to be
21 an adverse determination subject to appeal pursuant to section [forty
22 nine] FORTY-NINE hundred four of this title; PROVIDED, HOWEVER, THAT THE
23 FAILURE BY THE UTILIZATION REVIEW AGENT TO MAKE A DETERMINATION FOR
24 PRESCRIPTION DRUG BENEFITS WITHIN THE TIME FRAMES SPECIFIED IN SUBDIVI-
25 SION TWO OF THIS SECTION SHALL RESULT IN THE REQUEST BEING DEEMED
26 APPROVED.
27 8. (A) THE DEPARTMENT AND THE DEPARTMENT OF FINANCIAL SERVICES SHALL
28 JOINTLY DEVELOP A UNIFORM PRIOR AUTHORIZATION FORM FOR REQUESTS FOR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD15817-01-2

1 PRESCRIPTION DRUG BENEFITS AS SET FORTH IN SUBDIVISION TWO OF THIS
2 SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY PRESCRIBING
3 PROVIDER SHALL USE THAT UNIFORM PRIOR AUTHORIZATION FORM TO REQUEST
4 PRIOR AUTHORIZATION FOR COVERAGE OF PRESCRIPTION DRUG BENEFITS AND THAT
5 EVERY HEALTH CARE PLAN SHALL ACCEPT THAT FORM AS SUFFICIENT TO REQUEST
6 PRIOR AUTHORIZATION FOR PRESCRIPTION DRUG BENEFITS.

7 (B) THE PRIOR AUTHORIZATION FORM DEVELOPED PURSUANT TO PARAGRAPH (A)
8 OF THIS SUBDIVISION SHALL MEET THE FOLLOWING CRITERIA:

9 (I) THE FORM SHALL NOT EXCEED TWO PAGES;

10 (II) THE FORM SHALL BE MADE ELECTRONICALLY AVAILABLE BY THE DEPARTMENT
11 AND THE HEALTH CARE PLAN;

12 (III) THE COMPLETED FORM MAY ALSO BE ELECTRONICALLY SUBMITTED FROM THE
13 PRESCRIBING PROVIDER TO THE HEALTH CARE PLAN;

14 (IV) THE DEPARTMENT AND THE DEPARTMENT OF FINANCIAL SERVICES SHALL
15 DEVELOP THE FORM WITH INPUT FROM INTERESTED PARTIES FROM AT LEAST ONE
16 PUBLIC HEARING; AND

17 (V) THE DEPARTMENT AND THE DEPARTMENT OF FINANCIAL SERVICES, IN DEVEL-
18 OPMENT OF THE STANDARDIZED FORM, SHALL TAKE INTO CONSIDERATION THE
19 FOLLOWING:

20 (1) EXISTING PRIOR AUTHORIZATION FORMS ESTABLISHED BY THE FEDERAL
21 CENTERS FOR MEDICARE AND MEDICAID SERVICES AND THE DEPARTMENT; AND

22 (2) NATIONAL STANDARDS PERTAINING TO ELECTRONIC PRIOR AUTHORIZATION.

23 S 2. Subsections (b) and (g) of section 4903 of the insurance law,
24 subsection (b) as added by chapter 705 of the laws of 1996 and
25 subsection (g) as added by chapter 586 of the laws of 1998, are amended
26 to read as follows:

27 (b) A utilization review agent shall make a utilization review deter-
28 mination involving health care services which require pre-authorization
29 and provide notice of a determination to the insured or insured's desig-
30 nee and the insured's health care provider by telephone and in writing
31 within three business days of receipt of the necessary information. A
32 UTILIZATION REVIEW AGENT SHALL MAKE A UTILIZATION REVIEW DETERMINATION
33 INVOLVING A REQUEST FOR PRESCRIPTION DRUG BENEFITS WITHIN TWO BUSINESS
34 DAYS OF RECEIPT OF THE NECESSARY INFORMATION, AND WITHIN ONE DAY IF THE
35 REQUEST IS SUBMITTED BY ELECTRONIC MEANS. SUCH REQUEST FOR PRESCRIPTION
36 DRUG BENEFITS SHALL BE ON THE FORM DEVELOPED BY THE DEPARTMENT OF HEALTH
37 AND THE DEPARTMENT PURSUANT TO SUBDIVISION EIGHT OF SECTION FORTY-NINE
38 HUNDRED THREE OF THE PUBLIC HEALTH LAW. A HEALTH CARE PLAN SHALL ACCEPT
39 SUCH FORM AS SUFFICIENT TO REQUEST PRIOR AUTHORIZATION FOR PRESCRIPTION
40 DRUG BENEFITS.

41 (g) Failure by the utilization review agent to make a determination
42 within the time periods prescribed in this section shall be deemed to be
43 an adverse determination subject to appeal pursuant to section four
44 thousand nine hundred four of this title; PROVIDED, HOWEVER, THAT THE
45 FAILURE BY THE UTILIZATION REVIEW AGENT TO MAKE A DETERMINATION FOR
46 PRESCRIPTION DRUG BENEFITS WITHIN THE TIME FRAMES SPECIFIED IN
47 SUBSECTION (B) OF THIS SECTION SHALL RESULT IN THE REQUEST BEING DEEMED
48 APPROVED.

49 S 3. This act shall take effect immediately, except that the amend-
50 ments to subdivisions 2 and 7 of section 4903 of the public health law,
51 made by section one of this act, and section two of this act shall take
52 effect April 1, 2013.