

STATE OF NEW YORK

3400--A

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sens. BRESLIN, ADDABBO, CLEARE, FERNANDEZ, GALLIVAN, GONZALEZ, JACKSON, KRUEGER, LIU, MAY, RIVERA, WALCZYK, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the insurance law, in relation to utilization review program standards and pre-authorization of health care services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of subdivision 1 of section 4902 of the
2 public health law, as added by chapter 705 of the laws of 1996, is
3 amended to read as follows:

4 (c) Utilization of written clinical review criteria developed pursuant
5 to a utilization review plan. Such clinical review criteria shall
6 utilize recognized evidence-based and peer reviewed clinical review
7 criteria that take into account the needs of a typical patient popu-
8 lations and diagnoses;

9 § 2. Paragraph (a) of subdivision 2 of section 4903 of the public
10 health law, as separately amended by section 13 of part YY and section 3
11 of part KKK of chapter 56 of the laws of 2020, is amended to read as
12 follows:

13 (a) A utilization review agent shall make a utilization review deter-
14 mination involving health care services which require pre-authorization
15 and provide notice of a determination to the enrollee or enrollee's
16 designee and the enrollee's health care provider by telephone and in
17 writing within [~~three business days~~] seventy-two hours of receipt of the
18 necessary information, within twenty-four hours of the receipt of neces-

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

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1 sary information if the request is for an enrollee with a medical condi-
2 tion that places the health of the insured in serious jeopardy without
3 the health care services recommended by the enrollee's health care
4 professional, or for inpatient rehabilitation services following an
5 inpatient hospital admission provided by a hospital or skilled nursing
6 facility, within one business day of receipt of the necessary informa-
7 tion. The notification shall identify[+]: (i) whether the services are
8 considered in-network or out-of-network; (ii) and whether the enrollee
9 will be held harmless for the services and not be responsible for any
10 payment, other than any applicable co-payment or co-insurance; (iii) as
11 applicable, the dollar amount the health care plan will pay if the
12 service is out-of-network; and (iv) as applicable, information explain-
13 ing how an enrollee may determine the anticipated out-of-pocket cost for
14 out-of-network health care services in a geographical area or zip code
15 based upon the difference between what the health care plan will reim-
16 burse for out-of-network health care services and the usual and custom-
17 ary cost for out-of-network health care services. An approval for a
18 request for pre-authorization shall be valid for (1) the duration of the
19 prescription, including any authorized refills and (2) the duration of
20 treatment for a specific condition as requested by the enrollee's health
21 care provider.

22 § 3. Paragraph 3 of subsection (a) of section 4902 of the insurance
23 law, as added by chapter 705 of the laws of 1996, is amended to read as
24 follows:

25 (3) Utilization of written clinical review criteria developed pursuant
26 to a utilization review plan. Such clinical review criteria shall
27 utilize recognized evidence-based and peer reviewed clinical review
28 criteria that take into account the needs of a typical patient popu-
29 lations and diagnoses;

30 § 4. Paragraph 1 of subsection (b) of section 4903 of the insurance
31 law, as separately amended by section 16 of part YY and section 7 of
32 part KKK of chapter 56 of the laws of 2020, is amended to read as
33 follows:

34 (1) A utilization review agent shall make a utilization review deter-
35 mination involving health care services which require pre-authorization
36 and provide notice of a determination to the insured or insured's desig-
37 nee and the insured's health care provider by telephone and in writing
38 within [~~three business days~~] seventy-two hours of receipt of the neces-
39 sary information, within twenty-four hours of receipt of necessary
40 information if the request is for an insured with a medical condition
41 that places the health of the insured in serious jeopardy without the
42 health care services recommended by the insured's health care provider,
43 or for inpatient rehabilitation services following an inpatient hospital
44 admission provided by a hospital or skilled nursing facility, within one
45 business day of receipt of the necessary information. The notification
46 shall identify: (i) whether the services are considered in-network or
47 out-of-network; (ii) whether the insured will be held harmless for the
48 services and not be responsible for any payment, other than any applica-
49 ble co-payment, co-insurance or deductible; (iii) as applicable, the
50 dollar amount the health care plan will pay if the service is out-of-
51 network; and (iv) as applicable, information explaining how an insured
52 may determine the anticipated out-of-pocket cost for out-of-network
53 health care services in a geographical area or zip code based upon the
54 difference between what the health care plan will reimburse for out-of-
55 network health care services and the usual and customary cost for out-
56 of-network health care services. An approval of request for pre-authori-

1 zation shall be valid for (1) the duration of the prescription,
2 including any authorized refills and (2) the duration of treatment for a
3 specific condition requested for pre-authorization.

4 § 5. This act shall take effect on the one hundred eightieth day after
5 it shall have become a law.