STATE OF NEW YORK

3402

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to providing that the failure by the utilization review agent to make a determination within certain time periods shall be deemed to be an approval of the health care services

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

Section 1. Subdivision 7 of section 4903 of the public health law, as amended by chapter 512 of the laws of 2016, is amended to read as follows:

7. Failure by the utilization review agent to make a determination within the time periods prescribed in this section shall be deemed to be an [~~adverse determination subject to appeal pursuant to section forty-nine hundred four of this title, provided, however, that~~] **approval of the health care services in question and** failure to meet such time periods for a step therapy protocol as defined in subdivision seven-f-three of section forty-nine hundred of this title or a step therapy protocol override determination pursuant to subdivisions three-a, three-b and three-c of this section shall be deemed to be an override of the step therapy protocol.

§ 2. Subsection (g) of section 4903 of the insurance law, as amended by chapter 512 of the laws of 2016, is amended to read as follows:

(g) Failure by the utilization review agent to make a determination within the time periods prescribed in this section shall be deemed to be an [~~adverse determination subject to appeal pursuant to section four thousand nine hundred four of this title, provided, however, that~~] **approval of the health care services in question and** failure to meet such time periods for a step therapy protocol as defined in subsection (g-9) of section forty-nine hundred of this title or a step therapy protocol override determination pursuant to subsections (c-1), (c-2) and

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

LBD08337-01-3

(c-3) of this section shall be deemed to be an override of the step therapy protocol.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.