

# STATE OF NEW YORK

6648

2025-2026 Regular Sessions

## IN ASSEMBLY

March 6, 2025

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to utilization review determinations

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

1 Section 1. Paragraphs 4 and 5 of subsection (b) of section 3224-b of  
2 the insurance law are renumbered paragraphs 6 and 7 and two new para-  
3 graphs 4 and 5 are added to read as follows:

4 (4) In the absence of fraud, a retrospective review or audit of a  
5 claim by or on behalf of a health plan shall not reverse or otherwise  
6 alter a determination of medical necessity previously made by a utiliza-  
7 tion review agent or external appeal agent pursuant to article forty-  
8 nine of this chapter or article forty-nine of the public health law.

9 (5) In the absence of fraud, a review or audit of a claim by or on  
10 behalf of a health plan shall not downgrade or bundle the coding of a  
11 claim if it has the effect of reversing or altering a determination of  
12 medical necessity, which includes a level of care determination made by  
13 or on behalf of the health plan.

14 § 2. Section 4900 of the insurance law is amended by adding a new  
15 subsection (d-6) to read as follows:

16 (d-6) "Mental health and substance use disorders" means a mental  
17 health condition or substance use disorder that falls under any of the  
18 diagnostic categories listed in the mental and behavioral disorders  
19 chapter of the most recent edition of the World Health Organization's  
20 International Statistical Classification of Diseases and Related Health  
21 Problems, or that is listed in the most recent version of the American  
22 Psychiatric Association's Diagnostic and Statistical Manual of Mental  
23 Disorders. Changes in terminology, organization, or classification of  
24 mental health and substance use disorders in future versions of the  
25 American Psychiatric Association's Diagnostic and Statistical Manual of

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

LBD09369-01-5

1 Mental Disorders or the World Health Organization's International  
2 Statistical Classification of Diseases and Related Health Problems shall  
3 not affect the conditions covered by this section as long as a condition  
4 is commonly understood to be a mental health or substance use disorder  
5 by health care providers practicing in relevant clinical specialties.

6 § 3. Paragraph 7 of subsection (g-5) of section 4900 of the insurance  
7 law, as amended by chapter 357 of the laws of 2010, is amended and a new  
8 paragraph 8 is added to read as follows:

9 (7) findings, studies, or research conducted by or under the auspices  
10 of federal government agencies and nationally recognized federal  
11 research institutes including the federal Agency for Health Care Policy  
12 and Research, National Institutes of Health, National Cancer Institute,  
13 National Academy of Sciences, Health Care Financing Administration,  
14 Congressional Office of Technology Assessment, and any national board  
15 recognized by the National Institutes of Health for the purpose of eval-  
16 uating the medical value of health services[-]; and

17 (8) peer-reviewed practice guidelines, criteria, or recommendations  
18 from non-profit clinical specialty associations that are generally  
19 recognized by clinicians practicing in the relevant clinical specialty.

20 § 4. Subsections (g-6) and (g-6-a) of section 4900 of the insurance  
21 law are relettered subsections (g-6-a) and (g-6-b) and a new subsection  
22 (g-6) is added to read as follows:

23 (g-6) "Medically necessary" or "medical necessity" means a covered  
24 health care service or product that addresses the specific needs of the  
25 insured for the purposes of preventing, screening, diagnosing, managing,  
26 treating, or minimizing the progression of an illness, injury, condition  
27 or its symptoms, and that is:

28 (1) in accordance with medical and scientific evidence;

29 (2) clinically appropriate in terms of type, frequency, extent, site,  
30 and duration; and

31 (3) not primarily for the economic benefit of the insurer or the  
32 insured or for the convenience of the insured or the health care provid-  
33 er.

34 § 5. Subsection (g-6-b) of section 4900 of the insurance law, as added  
35 by section 11 of part H of chapter 60 of the laws of 2014, and as relet-  
36 tered by section 4 of this act, is amended to read as follows:

37 (g-6-b) "Out-of-network referral denial" means a denial under a  
38 managed care product as defined in subsection (c) of section four thou-  
39 sand eight hundred one of this chapter of a request for an authorization  
40 or referral to an out-of-network provider on the basis that the health  
41 care plan has a health care provider in the in-network benefits portion  
42 of its network with appropriate training and experience to meet the  
43 particular health care needs of an insured, and who is able to provide  
44 the requested health service. The notice of an out-of-network referral  
45 denial provided to an insured shall include information explaining what  
46 information the insured must submit in order to appeal the out-of-net-  
47 work referral denial pursuant to subsection (a-2) of section four thou-  
48 sand nine hundred four of this article. An out-of-network referral  
49 denial under this subsection does not constitute an adverse determi-  
50 nation as defined in this article. An out-of-network referral denial  
51 shall not be construed to include an out-of-network denial as defined in  
52 subsection [~~g-6~~] (g-6-a) of this section.

53 § 6. Paragraphs 8, 9, 10, 11 and 12 of subsection (a) of section 4902  
54 of the insurance law, paragraph 8 as added by chapter 705 of the laws of  
55 1996, paragraph 9 as amended by section 37 and paragraph 12 as added by  
56 section 38 of subpart A of part BB of chapter 57 of the laws of 2019,

1 and paragraphs 10 and 11 as added by chapter 512 of the laws of 2016,  
2 are amended to read as follows:

3 (8) Establishment of a requirement that emergency services, including  
4 emergency services for mental health and substance use disorders  
5 provided by mobile crisis response teams or crisis receiving or stabili-  
6 zation centers, rendered to an insured shall not be subject to prior  
7 authorization nor shall reimbursement for such services be denied on  
8 retrospective review[~~, provided, however, that such services are~~  
9 ~~medically necessary~~]. Notwithstanding the foregoing, payment for emer-  
10 gency services may be denied only if a health plan reasonable determines  
11 the emergency services were never performed to stabilize or treat an  
12 emergency condition.

13 (9) When conducting utilization review for purposes of determining  
14 health care coverage for substance use disorder treatment, a utilization  
15 review agent shall utilize [~~an evidence-based and~~] a peer reviewed clin-  
16 ical review tool that is appropriate to the age of the patient, fully  
17 consistent with medical and scientific evidence, and publicly identifies  
18 all authors, reviewers, and editors who participated in the development  
19 and review of such tool. When conducting such utilization review for  
20 treatment provided in this state, a utilization review agent shall  
21 utilize an evidence-based and peer reviewed clinical tool designated by  
22 the office of [~~alcoholism and substance abuse~~] addiction services and  
23 supports that is consistent with the treatment service levels within the  
24 office of [~~alcoholism and substance abuse~~] addiction services and  
25 supports system. All approved tools shall have inter rater reliability  
26 testing completed by December thirty-first, two thousand sixteen.

27 [~~10-~~] (10) When establishing a step therapy protocol, a utilization  
28 review agent shall utilize recognized [~~evidence-based and~~] peer reviewed  
29 clinical review criteria that [~~also~~] is fully consistent with medical  
30 and scientific evidence and takes into account the needs of atypical  
31 patient populations and diagnoses when establishing the clinical review  
32 criteria. The criteria shall publicly identify all authors, reviewers,  
33 and editors who participated in the development and review of the crite-  
34 ria.

35 [~~11-~~] (11) When conducting utilization review for a step therapy  
36 protocol override determination, a utilization review agent shall  
37 utilize, in addition to any other requirements of this article, [~~recoog-~~  
38 ~~nized evidence-based and~~] peer reviewed clinical review criteria that is  
39 appropriate for the insured and the insured's medical condition and is  
40 fully consistent with medical and scientific evidence. The criteria  
41 shall publicly identify all authors, reviewers, and editors who partic-  
42 ipated in the development and review of the criteria.

43 (12) When conducting utilization review for purposes of determining  
44 health care coverage for a mental health condition, a utilization review  
45 agent shall utilize [~~evidence-based and~~] peer reviewed clinical review  
46 criteria that is fully consistent with medical and scientific evidence  
47 and appropriate to the age of the patient. The utilization review agent  
48 shall use clinical review criteria designated by the commissioner of the  
49 office of mental health for level of care determinations, in consulta-  
50 tion with the superintendent and the commissioner of health. For cover-  
51 age determinations outside the scope of the criteria designated for  
52 level of care determinations, the utilization review agent shall use  
53 clinical review criteria deemed appropriate and approved for such use by  
54 the commissioner of the office of mental health, in consultation with  
55 the commissioner of health and the superintendent. Approved clinical

1 review criteria shall have inter rater reliability testing completed [~~by~~  
2 ~~December thirty first, two thousand nineteen~~ prior to implementation.

3 § 7. Section 4903 of the insurance law is amended by adding a new  
4 subsection (j) to read as follows:

5 (j) A utilization review agent shall authorize a request for a covered  
6 health care service or product that is medically necessary.

7 § 8. Paragraphs (h), (i) and (j) of subdivision 1 and subdivisions 3  
8 and 4 of section 4902 of the public health law, paragraph (h) of subdivi-  
9 sion 1 as added by chapter 705 of the laws of 1996, paragraph (i) of  
10 subdivision 1 as amended and paragraph (j) of subdivision 1 as added by  
11 section 43 of subpart A of part BB of chapter 57 of the laws of 2019,  
12 and subdivisions 3 and 4 as added by chapter 512 of the laws of 2016,  
13 are amended to read as follows:

14 (h) Establishment of a requirement that emergency services, including  
15 emergency services for mental health and substance use disorders  
16 provided by mobile crisis response teams or crisis receiving or stabili-  
17 zation centers, rendered to an enrollee shall not be subject to prior  
18 authorization nor shall reimbursement for such services be denied on  
19 retrospective review[~~, provided, however, that such services are~~  
20 ~~medically necessary~~]. Notwithstanding the foregoing, payment for emer-  
21 gency services may be denied only if a health plan reasonably determines  
22 the emergency services were never performed to stabilize or treat an  
23 emergency condition.

24 (i) When conducting utilization review for purposes of determining  
25 health care coverage for substance use disorder treatment, a utilization  
26 review agent shall utilize [~~an evidence-based and~~ a peer reviewed clin-  
27 ical review tool that is appropriate to the age of the patient, fully  
28 consistent with medical and scientific evidence, and publicly identifies  
29 all authors, peer reviewers, and editors who participated in the devel-  
30 opment and review of such tool. When conducting such utilization review  
31 for treatment provided in this state, a utilization review agent shall  
32 utilize an evidence-based and peer reviewed clinical tool designated by  
33 the office of [~~alcoholism and substance abuse~~ addiction services and  
34 supports that is consistent with the treatment service levels within the  
35 office of [~~alcoholism and substance abuse~~ addiction services and  
36 supports system. All approved tools shall have inter rater reliability  
37 testing completed by December thirty-first, two thousand sixteen.

38 (j) When conducting utilization review for purposes of determining  
39 health care coverage for a mental health condition, a utilization review  
40 agent shall utilize [~~evidence-based and~~ peer reviewed clinical review  
41 criteria that is fully consistent with medical and scientific evidence  
42 and appropriate to the age of the patient. The utilization review agent  
43 shall use clinical review criteria [~~deemed appropriate and approved for~~  
44 ~~such use~~ designated by the commissioner of the office of mental health  
45 for level of care determinations, in consultation with the commissioner  
46 and the superintendent of financial services. For coverage determi-  
47 nations outside the scope of the criteria designated for level of care  
48 determinations, the utilization review agent shall use clinical review  
49 criteria deemed appropriate and approved for such use by the commis-  
50 ioner of the office of mental health, in consultation with the commissioner  
51 and the superintendent of financial services. Approved clinical review  
52 criteria shall have inter rater reliability testing completed [~~by Decem-~~  
53 ~~ber thirty first, two thousand nineteen~~ prior to implementation.

54 3. When establishing a step therapy protocol, a utilization review  
55 agent shall utilize [~~recognized evidence-based and~~ peer reviewed clin-  
56 ical review criteria that is fully consistent with medical and scientif-

1 ic evidence and takes into account the needs of atypical patient popu-  
2 lations and diagnoses [~~as well~~] when establishing the clinical review  
3 criteria. The criteria shall publicly identify all authors, reviewers,  
4 and editors who participated in the development and review of the crite-  
5 ria.

6 4. When conducting utilization review for a step therapy protocol  
7 override determination, a utilization review agent shall utilize, in  
8 addition to any other requirements of this article, [~~recognized~~  
9 ~~evidence-based and~~] peer reviewed clinical review criteria that is  
10 appropriate for the enrollee and the enrollee's medical condition and is  
11 fully consistent with medical and scientific evidence. The criteria  
12 shall publicly identify all authors, reviewers, and editors who partic-  
13 ipated in the development and review of the criteria.

14 § 9. This act shall take effect immediately.