

STATE OF NEW YORK

8556

2025-2026 Regular Sessions

IN ASSEMBLY

May 20, 2025

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

AN ACT to amend the public health law and the insurance law, in relation to the use of an artificial intelligence, algorithm, or other software tool for the purpose of utilization review

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

1 Section 1. The public health law is amended by adding a new section
2 4905-a to read as follows:

3 § 4905-a. Use of artificial intelligence, algorithm, or other soft-
4 ware tool for the purpose of utilization review. 1. A utilization review
5 agent that uses an artificial intelligence, algorithm, or other software
6 tool for the purpose of utilization review, based in whole or in part on
7 medical necessity, or that contracts with or otherwise works through an
8 entity that uses an artificial intelligence, algorithm, or other soft-
9 ware tool for the purpose of utilization review, based in whole or in
10 part on medical necessity, shall comply with this section and shall
11 ensure all of the following:

12 (a) The artificial intelligence, algorithm, or other software tool
13 bases its determination on the following information, as applicable:

14 (i) an enrollee's medical or other clinical history;

15 (ii) individual clinical circumstances as presented by the requesting
16 provider; and

17 (iii) other relevant clinical information contained in the enrollee's
18 medical or other clinical record.

19 (b) The artificial intelligence, algorithm, or other software tool
20 does not base its determination solely on a group dataset.

21 (c) The artificial intelligence, algorithm, or other software tool's
22 criteria and guidelines complies with this article, including, but not
23 limited to any other applicable state and federal law.

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

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1 (d) The artificial intelligence, algorithm, or other software tool
2 does not supplant health care provider decision-making.

3 (e) The use of the artificial intelligence, algorithm, or other soft-
4 ware tool does not discriminate, directly or indirectly, against enrol-
5 lees in violation of state or federal law.

6 (f) The artificial intelligence, algorithm, or other software tool is
7 fairly and equitably applied, including in accordance with any applica-
8 ble regulations and guidance issued by the federal department of health
9 and human services.

10 (g) The artificial intelligence, algorithm, or other software tool is
11 open to inspection for audit or compliance reviews by the department.

12 (h) Disclosures pertaining to the use and oversight of the artificial
13 intelligence, algorithm, or other software tool are contained in the
14 written policies and procedures, as required by section forty-nine
15 hundred two of this title.

16 (i) The artificial intelligence, algorithm, or other software tool's
17 performance, use, and outcomes are periodically reviewed and revised to
18 maximize accuracy and reliability.

19 (j) Patient data is not used beyond its intended and stated purpose,
20 consistent with this section and the federal Health Insurance Portabil-
21 ity and Accountability Act of 1996 (Public Law 104-191), as applicable.

22 (k) The artificial intelligence, algorithm, or other software tool
23 does not directly or indirectly cause harm to the enrollee.

24 2. Notwithstanding subdivision one of this section, the artificial
25 intelligence, algorithm, or other software tool shall not deny, delay,
26 or modify health care services based, in whole or in part, on medical
27 necessity. A determination of medical necessity shall be made only by a
28 licensed physician or a licensed health care professional competent to
29 evaluate the specific clinical issues involved in the health care
30 services requested by the provider, as provided in this title, by
31 reviewing and considering the requesting provider's recommendation, the
32 enrollee's medical or other clinical history, as applicable, and indi-
33 vidual clinical circumstances.

34 3. For purposes of this section, "artificial intelligence" means an
35 engineered or machine-based system that varies in its level of autonomy
36 and that can, for explicit or implicit objectives, infer from the input
37 it receives how to generate outputs that can influence physical or
38 virtual environments.

39 4. This section shall apply to utilization reviews that prospectively,
40 retrospectively, or concurrently review requests for covered health care
41 services.

42 5. A health care service plan subject to this section shall comply
43 with applicable federal rules and guidance issued by the federal depart-
44 ment of health and human services regarding the use of artificial intel-
45 ligence, algorithm, or other software tools. The department may issue
46 guidance to implement this section within one year of the adoption of
47 federal rules or the issuance of guidance by the federal department of
48 health and human services regarding the use of artificial intelligence,
49 algorithm, or other software tools. Such guidance shall not be subject
50 to the state administrative procedure act.

51 6. For purposes of implementing this section, the department may enter
52 into exclusive or nonexclusive contracts, or amend existing contracts,
53 on a bid or negotiated basis. Contracts entered into or amended pursuant
54 to this subdivision shall be exempt from articles nine and eleven of the
55 state finance law, and shall not be subject to review or approval of any
56 other state agency or entity.

1 7. This section applies only to the extent that the department obtains
2 any necessary federal approvals, and federal financial participation is
3 not otherwise jeopardized.

4 § 2. The insurance law is amended by adding a new section 4905-a to
5 read as follows:

6 § 4905-a. Use of artificial intelligence, algorithm, or other soft-
7 ware tool for the purpose of utilization review. 1. A disability insur-
8 er, including a specialized health insurer that uses an artificial
9 intelligence, algorithm, or other software tool for the purpose of
10 utilization review or utilization management functions, based in whole
11 or in part on medical necessity, or that contracts with or otherwise
12 works through an entity that uses an artificial intelligence, algorithm,
13 or other software tool for the purpose of utilization review or utiliza-
14 tion management functions, based in whole or in part on medical necessi-
15 ty, shall comply with this section and shall ensure all of the follow-
16 ing:

17 (a) The artificial intelligence, algorithm, or other software tool
18 bases its determination on the following information, as applicable:

19 (i) An insured's medical or other clinical history;

20 (ii) Individual clinical circumstances as presented by the requesting
21 provider; and

22 (iii) Other relevant clinical information contained in the insured's
23 medical or other clinical record.

24 (b) The artificial intelligence, algorithm, or other software tool
25 does not base its determination solely on a group dataset.

26 (c) The artificial intelligence, algorithm, or other software tool's
27 criteria and guidelines complies with this chapter and applicable state
28 and federal law.

29 (d) The artificial intelligence, algorithm, or other software tool
30 does not supplant health care provider decision-making.

31 (e) The use of the artificial intelligence, algorithm, or other soft-
32 ware tool does not discriminate, directly or indirectly, against
33 insureds in violation of state or federal law.

34 (f) The artificial intelligence, algorithm, or other software tool is
35 fairly and equitably applied, including in accordance with any applica-
36 ble regulations and guidance issued by the federal department of health
37 and human services.

38 (g) The artificial intelligence, algorithm, or other software tool is
39 open to inspection for audit or compliance reviews by the department
40 pursuant to applicable state and federal law.

41 (h) Disclosures pertaining to the use and oversight of the artificial
42 intelligence, algorithm, or other software tool are contained in the
43 written policies and procedures, as required by section forty-nine
44 hundred two of this title.

45 (i) The artificial intelligence, algorithm, or other software tool's
46 performance, use, and outcomes are periodically reviewed and revised to
47 maximize accuracy and reliability.

48 (j) Patient data is not used beyond its intended and stated purpose,
49 consistent with state law and the federal Health Insurance Portability
50 and Accountability Act of 1996 (Public Law 104-191), as applicable.

51 (k) The artificial intelligence, algorithm, or other software tool
52 does not directly or indirectly cause harm to the insured.

53 2. Notwithstanding subsection one of this section, the artificial
54 intelligence, algorithm, or other software tool shall not deny, delay,
55 or modify health care services based, in whole or in part, on medical
56 necessity. A determination of medical necessity shall be made only by a

1 licensed physician or licensed health care professional competent to
2 evaluate the specific clinical issues involved in the health care
3 services requested by the provider, as provided in this title, by
4 reviewing and considering the requesting provider's recommendation, the
5 insured's medical or other clinical history, as applicable, and individ-
6 ual clinical circumstances.

7 3. For purposes of this section, "artificial intelligence" means an
8 engineered or machine-based system that varies in its level of autonomy
9 and that can, for explicit or implicit objectives, infer from the input
10 it receives how to generate outputs that can influence physical or
11 virtual environments.

12 4. This section shall apply to utilization review or utilization
13 management functions that prospectively, retrospectively, or concurrent-
14 ly review requests for covered health care services.

15 5. An insurer subject to this section shall comply with applicable
16 federal rules and guidance issued by the federal department of health
17 and human services regarding the use of artificial intelligence, algo-
18 rithm, or other software tools. The department may issue guidance to
19 implement this paragraph within one year of the adoption of federal
20 rules or the issuance of guidance by the federal department of health
21 and human services regarding the use of artificial intelligence, algo-
22 rithm, or other software tools. Such guidance shall not be subject to
23 the state administrative procedure act.

24 6. For purposes of implementing this section, the department may enter
25 into exclusive or nonexclusive contracts, or amend existing contracts,
26 on a bid or negotiated basis. Contracts entered into or amended pursuant
27 to this subdivision shall be exempt from articles nine and eleven of the
28 state finance law, and shall not be subject to review or approval of any
29 other state agency or entity.

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