LFC Requester:	RubyAnn Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2-10-2025
Bill Number: SB 39

Check all that apply:
Original X Correction __
Amendment __ Substitute __

Sponsor: Sens. Elizabeth "Liz" Stefanics, Reena Szczepanski, Mimi Stewart, Carrie Hamblen
Short Title: Add Classes to Prior Authorization Drugs

Agency Name and Code Number: Regulation and Licensing Department, 420
Person Writing Jen Rodriguez
Phone: 505-310-0622 **Email** Jen.rodriguez@rld.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 39 (SB39)

SB39 amends the Prior Authorization Act, §§59A-22B-1 to 8, NMSA 1978 (Act) to add classes of drugs that are not subject to prior authorizations or step therapy protocols. Medications intended to treat rare diseases or medical condition will not be subject to prior authorization under the terms of the bill. Step therapy requirements will also not be allowed to be imposed for coverage of an off-label use of a medication. It will be required that medication be prescribed based on a medical necessity determination made by a health care professional from the same or similar practice specialty that typically manages the medical condition, procedure or treatment under review.

Summary by Section:

Section 1 of SB39 amends the "Definitions" section of the Act (§59A-22B-2) defining "off-label" as a medication or dosage of a medication that has not been approved by the Federal Food and Drug Administration (FDA) as treatment for a specific condition or disease but for which there is sufficient clinical evidence for a prescribing clinician to reasonably consider the medication to be clinically necessary to treat the condition or disease. It further amends the meaning of "prior authorization" to allow it to be a voluntary or mandatory pre-service determination, including a recommended clinical review, made by a health insurer concerning eligibility for services. It also defines "rare disease or condition" as one that affects fewer than 200,000 people in the U.S.

Section 2 is mainly not substantive, eliminating some unnecessary language from §59A-22B-5 "Prior Authorization Requirements" and changing the language of "[a] health insurer that ~~requires~~ prior authorization" to "[a] health insurer that offers prior authorization."

Section 3 of SB39 amends §59A-22B-8 "Prior Authorization for Prescription Drugs or Step Therapy for Certain Conditions Prohibited," to add that prior authorization nor step therapy shall be required for coverage of medication for rare diseases in addition to the current prohibition against requiring prior authorization or step therapy for an autoimmune disorder, cancer, or substance use disorder.

Prior authorization cannot be imposed on off-label use of a medication approved by the FDA when it is prescribed for a rare disease or condition or for an autoimmune disorder, cancer, or substance use disorder, pursuant to a medical necessity determination made by a health care professional from the same or similar practice specialty that typically manages the medical condition, procedure or treatment under review, except in cases where a biosimilar, interchangeable biologic or generic version is available.

Medical necessity determinations shall be automatically approved within seven (7) days for standard determinations and twenty-four (24) hours for emergency determinations when a delay in treatment could:

1. Seriously jeopardize a covered person's life or overall health;
2. Affect a covered person's ability to regain maximum function; or
3. Subject a covered person to severe and intolerable pain.

Similarly, a health insurer is not permitted to impose step therapy requirements before authorizing coverage for an off-label medication use prescribed for treatment of a rare disease or condition, pursuant to a medical necessity determination within parameters defined in the bill.

Section 4 sets the parameters of "Applicability" of SB39, requiring that it apply to policies entered into, offered, or issued on or after July 1, 2025, pursuant to health insurance contracts, group and blanket health insurance contracts, the Health Maintenance Organization Law, the Nonprofit Health Care Plan Law, or the Health Care Purchasing Act.

Although not clearly stated, the effective date of the legislation is presumed to be July 1, 2025, based on the applicability clause in Section 4.

FISCAL IMPLICATIONS
The Regulation and Licensing Department (RLD) does not anticipate any significant fiscal impact from the enactment of SB39.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
SB39 is substantially similar to Senate Bill 207.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS