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HOUSE BILL 461

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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and Cristina Parajón and Martin Hickey

AN ACT

RELATING TO INSURANCE; ENACTING A NEW SECTION OF THE PRIOR
AUTHORIZATION ACT TO REQUIRE HEALTH INSURERS TO ESTABLISH
PROCEDURES TO GRANT EXEMPTIONS FROM THEIR PRIOR AUTHORIZATION
PROCESS FOR HEALTH CARE PROFESSIONALS THAT MEET CERTAIN
CRITERIA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-22B-1 NMSA 1978 (being Laws 2019,
Chapter 187, Section 3) is amended to read:

"59A-22B-1. SHORT TITLE.--~~[Sections 3 through 7 of this
act]~~ Chapter 59A, Article 22B NMSA 1978 may be cited as the
"Prior Authorization Act"."

SECTION 2. A new section of the Prior Authorization Act
is enacted to read:

"[NEW MATERIAL] PROCESS FOR GRANTING EXEMPTIONS FROM PRIOR
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1 AUTHORIZATION PROCESS CREATED--APPLICATIONS--ELIGIBILITY--
2 RESCISSION--INDEPENDENT REVIEW.--

3 A. For purposes of this section:

4 (1) "abuse" means health care professional
5 practices that are inconsistent with sound fiscal, business or
6 medical practices and result in an unnecessary cost to the
7 health insurer or in reimbursement for services that are not
8 medically necessary or that fail to meet professionally
9 recognized standards for health care;

10 (2) "evaluation period" means a six-month
11 period beginning each January and each June; and

12 (3) "fraud" means an intentional deception or
13 misrepresentation made by a person with the knowledge that the
14 deception could result in some unauthorized benefit to the
15 person or another person and includes any act that constitutes
16 fraud under applicable federal or state law.

17 B. No sooner than thirty days after the end of each
18 evaluation period, a participating health care professional may
19 apply to a health insurer for an exemption from its prior
20 authorization process, including a recommended clinical review,
21 for outpatient health care services. A health insurer shall
22 grant the exemption request if, in the evaluation period prior
23 to the exemption request, no less than ninety percent of the
24 health care professional's ten or more prior authorization
25 requests for that outpatient health care service have been

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1 approved upon initial submission or after appeal.

2 C. A health insurer shall provide a written
3 approval or denial of the prior authorization exemption request
4 no later than ten business days after receipt of the request.

5 D. When a health care professional's prior
6 authorization exemption request is denied, a health insurer
7 shall provide an explanation for the denial, including data,
8 that sufficiently demonstrates how the request failed to meet
9 the criteria established pursuant to Subsection B of this
10 section.

11 E. When a health care professional's prior
12 authorization exemption request is approved, a health insurer
13 shall provide the health care professional with information
14 regarding the rights and obligations of the parties, including
15 the effective date of the prior authorization exemption.

16 F. Once during each evaluation period, except as
17 provided for in Subsection H of this section, a health insurer
18 may determine whether to continue or rescind a health care
19 professional's prior authorization exemption.

20 G. Except as provided for in Subsection H of this
21 section, a health insurer shall not rescind a health care
22 professional's prior authorization exemption unless the health
23 insurer:

24 (1) determines that less than ninety percent
25 of the claims submitted by the health care professional during

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1 the previous evaluation period would have met the applicable
2 medical necessity criteria, based on a retrospective review of
3 a random sample of not fewer than five but no more than twenty
4 claims; and

5 (2) provides the health care professional with
6 written notice not less than twenty-five days before the
7 rescission is to take effect, including an explanation and the
8 sample information used to make the determination.

9 H. If a health insurer determines that a health
10 care professional has fraudulently or abusively used any
11 exemption, the health insurer may immediately and retroactively
12 to the time of the first incident of fraud or abuse rescind all
13 exemptions upon written notice to the health care professional,
14 including an explanation and sample information used to make
15 the determination.

16 I. A health care professional has a right to a
17 request an independent review of the determination to rescind a
18 prior authorization exemption.

19 J. A health insurer shall not require a health care
20 professional to engage in an internal appeal process before
21 requesting an independent review of the determination to
22 rescind a prior authorization exemption.

23 K. An independent review organization shall
24 complete a review of an adverse determination no later than
25 thirty days after the date a health care professional files a

1 request for the review.

2 L. A health care professional may request that the
3 independent review organization conduct a review of another
4 sample of claims using the process described in Subsection G of
5 this section.

6 M. The independent review shall be conducted by a
7 person licensed to practice medicine in this state. If the
8 rescission applies to a physician, the determination shall be
9 made by a person licensed to practice medicine in this state
10 who practices in the same or similar specialty as the physician
11 requesting the review.

12 N. The health insurer shall pay:

13 (1) for an independent review of the adverse
14 determination; and

15 (2) a reasonable fee, determined by the New
16 Mexico medical board, for any copies of medical records or
17 other documents requested from the health care professional
18 that are necessary for conducting the independent review.

19 O. The parties shall be bound by an independent
20 review organization's decision.

21 P. Except in the case of fraud or abuse, if an
22 independent review organization overturns the health insurer's
23 determination to rescind a prior authorization exemption, the
24 health insurer shall not attempt to rescind that exemption
25 until the beginning of the next evaluation period.

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