
A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that prior approval for
2 medical services, also known as precertification or
3 preauthorization, refers to health insurer requirements that
4 certain physician-ordered treatments or services must be
5 approved in advance by the insurer or by a medical review
6 service contracted by the insurer before the insurer will
7 provide final reimbursement or payment.

8 The legislature further finds that while preauthorization
9 may be a useful and necessary tool, insurers should make
10 patients and health care providers aware, in advance, of the
11 medical policies insurers use when making preauthorization
12 decisions. Currently, there is no requirement that insurers
13 disclose the medical policies used for preauthorization
14 decisions before those decisions are made. This lack of
15 disclosure can lead to confusion and frustration for health care
16 providers and their patients. Further, the lack of clarity
17 around preauthorization decisions may cause unnecessary and



1 sometimes harmful delays in the administration of proper patient
2 care. Moreover, requiring insurers to provide advance notice of
3 their preauthorization standards and criteria will help ensure
4 that preauthorization decisions are appropriately evidence-
5 based.

6 The requirements of this Act shall also apply to all health
7 benefits plans under chapter 87A, Hawaii Revised Statutes.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Require all health insurers in the State to disclose
10 on, or have accessible through, their public websites
11 all medical policies that the health insurers use when
12 making preauthorization decisions related to medical
13 treatment or service;
- 14 (2) Prohibit insurers from requiring a preauthorization
15 that causes undue delay in a patient's receipt of
16 medical treatment or services; and
- 17 (3) Clarify liability for patient injuries caused by
18 insurer preauthorization delays.

19 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
20 amended by adding two new sections to article 10A to be
21 appropriately designated and to read as follows:



1 "§431:10A-A Preauthorization; undue delay; liability. (a)

2 Notwithstanding any provision of the law to the contrary, no
3 insurer shall require preauthorization of medical services or
4 treatments so as to cause an undue delay in a patient's receipt
5 of medical treatment or services.

6 (b) For the purposes of this section, "undue delay" means
7 an unreasonable delay in medical treatment or services that may
8 cause the exacerbation or worsening of a health condition due
9 to:

10 (1) Insufficient time to obtain a first-time
11 preauthorization from an insurer or unwarranted
12 rejection by an insurer of a first-time
13 preauthorization;

14 (2) Administrative difficulties or delays in receiving
15 preauthorization from an insurer; and

16 (3) Difficulties arising from noncommunication by an
17 insurer concerning a medical treatment or service
18 preauthorization;

19 provided that a response time for a preauthorization request
20 that exceeds the response time permitted for a similar
21 preauthorization request by medicaid, medicare, or other federal



1 plans or programs for the same medical treatment or service
2 shall be deemed an undue delay.

3 (c) Notwithstanding any provision of the law to the
4 contrary, a licensed health care provider shall not be civilly
5 liable for injury to a patient that was caused by the insurer's
6 undue delay in preauthorizing a medical treatment or service.

7 (d) A patient shall have an individual right to enforce
8 this section.

9 §431:10A-B Disclosure of medical policies. Any insurer
10 that requires preauthorization of a medical treatment or service
11 shall disclose on its public website any medical policies that
12 the insurer uses for preauthorization decisions, including a
13 listing of medical services that may be subject to
14 preauthorization review, preauthorization application procedure,
15 preauthorization determination criteria, and procedure to appeal
16 a denial decision. The disclosure shall be prominently
17 displayed and accessible to the public."

18 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
19 amended by adding a new section to article 1 to be appropriately
20 designated and to read as follows:



1 "§432:1- Disclosure of medical policies. Any mutual
2 benefit society that requires preauthorization of a medical
3 treatment or service shall disclose on its public website any
4 medical policies that the mutual benefit society uses for
5 preauthorization decisions, including a listing of medical
6 services that may be subject to preauthorization review,
7 preauthorization application procedure, preauthorization
8 determination criteria, and procedure to appeal a denial
9 decision. The disclosure shall be prominently displayed and
10 readily accessible to the public."

11 SECTION 4. Chapter 432D, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§432D- Disclosure of medical policies. Any health
15 maintenance organization that requires preauthorization of a
16 medical treatment or service shall disclose on its public
17 website any medical policies that the health maintenance
18 organization uses for preauthorization decisions, including a
19 listing of medical services that may be subject to
20 preauthorization review, preauthorization application procedure,
21 preauthorization determination criteria, and procedure to appeal



1 a denial decision. The disclosure shall be prominently
2 displayed and accessible to the public."

3 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§432D-23 Required provisions and benefits.**

6 Notwithstanding any provision of law to the contrary, each
7 policy, contract, plan, or agreement issued in the State after
8 January 1, 1995, by health maintenance organizations pursuant to
9 this chapter, shall include benefits provided in sections
10 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
11 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
12 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
13 431:10A-133, 431:10A-134, 431:10A-140, [~~and 431:10A-1347~~]
14 431:10A-A, 431:10A-B, and chapter 431M."

15 SECTION 6. Notwithstanding any other law to the contrary,
16 the preauthorization prohibition and disclosure requirements
17 under sections 2, 3, 4, and 5 of this Act shall apply to all
18 health benefits plans under chapter 87A, Hawaii Revised
19 Statutes, issued, renewed, modified, altered, or amended on or
20 after the effective date of this Act.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 9. This Act shall take effect on July 1, 2018;
7 provided that sections 2, 3, 4, and 5 of this Act shall take
8 effect on January 1, 2019.



Report Title:

Preauthorization; Disclosure; Health Insurance; Medical Policies

Description:

Prohibits all health insurers from requiring a medical treatment or service preauthorization that causes undue delay in the receipt of the treatment or service. Requires all health insurers to disclose the medical policies that the insurer uses for preauthorization decisions. (SB287 HD2)

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