
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that prior authorization
2 is a health plan cost-control process that requires physicians,
3 health care professionals, and hospitals to obtain advance
4 approval from a health plan before a specific service to a
5 patient is qualified for payment or coverage. Each health plan
6 has its own policies and procedures that health care providers
7 are required to navigate to have services they prescribe for
8 their patients approved for payment before being provided to the
9 patient. Each health plan uses its own standards and methods,
10 the individual judgment of an employed medical director, or
11 advice from a contracted firm for determining the medical
12 necessity of the services prescribed, which are not transparent
13 or clear to the prescribing clinician or health care provider.

14 The legislature further finds that there is emerging
15 consensus among health care providers that prior authorization
16 increases administrative burdens and costs. In the 2023
17 physician workforce report published by the university of Hawaii



1 John A. Burns school of medicine, physicians voted prior
2 authorization as their top concern regarding administrative
3 burden. Furthermore, a physician survey conducted by the
4 American Medical Association reported that ninety-five per cent
5 of physicians attribute prior authorization to somewhat or
6 significantly increased physician burnout, and that more than
7 one-in-three physicians have staff who work exclusively on prior
8 authorization. The survey also found that:

- 9 (1) Eighty-three per cent of prior authorization denials
10 were subsequently overturned by health plans;
- 11 (2) Ninety-four per cent of respondents said that the
12 prior authorization process always, often, or
13 sometimes delays care;
- 14 (3) Nineteen per cent of respondents said prior
15 authorization resulted in a serious adverse event
16 leading to a patient being hospitalized;
- 17 (4) Thirteen per cent of respondents said prior
18 authorization resulted in a serious adverse event
19 leading to a life-threatening event or requiring
20 intervention to prevent permanent impairment or
21 damage; and



1 (5) Seven per cent of respondents said prior authorization
2 resulted in a serious adverse event leading to a
3 patient's disability, permanent body damage,
4 congenital anomaly, birth defect, or death.

5 The legislature believes that reducing the burdens of prior
6 authorization will assist health care providers, thereby
7 ensuring the health and safety of their patients.

8 Accordingly, the purpose of this Act is to:

9 (1) Examine prior authorization practices in the State by
10 requiring utilization review entities to report
11 certain data to the state health planning and
12 development agency; and

13 (2) Establish the health care appropriateness and
14 necessity working group to make recommendations to
15 improve and expedite the prior authorization process.

16 SECTION 2. Chapter 323D, Hawaii Revised Statutes, is
17 amended by adding two new sections to part II to be
18 appropriately designated and to read as follows:

19 "§323D- Prior authorization; reporting. (a)
20 Utilization review entities doing business in the State shall
21 submit data to the state agency relating to prior authorization



1 of health care services, in a format specified by the state
2 agency. Reporting shall be annual for the preceding calendar
3 year and shall be submitted no later than January 31 of the
4 subsequent calendar year. The state agency shall post the
5 reporting format on its website no later than three months
6 before the start of the reporting period.

7 (b) Protected health information as defined in title 45
8 Code of Federal Regulations section 160.103 shall not be
9 submitted to the state agency unless:

- 10 (1) The individual to whom the information relates
11 authorizes the disclosure; or
- 12 (2) Authorization is not required pursuant to title 45
13 Code of Federal Regulations section 164.512.

14 (c) The state agency shall compile the data by provider of
15 health insurance, health care setting, and line of business, and
16 shall post a report of findings, including recommendations, on
17 its website no later than March 1 of the year after the
18 reporting period. If the state agency is unable to post the
19 report of findings by March 1, the state agency shall notify the
20 legislature in writing within ten days and include an estimated



1 date of posting, reasons for the delay, and if applicable, a
2 corrective action plan.

3 **§323D- Health care appropriateness and necessity working**
4 **group; established.** (a) There is established the health care
5 appropriateness and necessity working group within the state
6 agency. The working group shall:

7 (1) Determine by research and consensus:

8 (A) The most respected peer-reviewed national
9 scientific standards;

10 (B) Clinical guidelines; and

11 (C) Appropriate use criteria published by federal
12 agencies, academic institutions, and professional
13 societies,

14 that correspond to each of the most frequent clinical
15 treatments, procedures, medications, diagnostic
16 images, laboratory and diagnostic tests, or types of
17 medical equipment prescribed by licensed physicians
18 and other health care providers in the State that
19 trigger prior authorization determinations by the
20 utilization review entities;



- 1 (2) Assess whether it is appropriate to require prior
2 authorization for each considered clinical treatment,
3 procedure, medication, diagnostic image, or type of
4 medical equipment prescribed by licensed physicians
5 and other health care providers;
- 6 (3) Make recommendations on standards for third party
7 reviewers related to the specialty expertise of those
8 reviewing and for those discussing a patient's denial
9 with the patient's health care provider;
- 10 (4) Recommend appropriate time frames within which urgent
11 and standard requests shall be decided;
- 12 (5) Monitor anticipated federal developments related to
13 prior authorization for health care services and
14 consider these in making its recommendations; and
- 15 (6) Assess industry progress towards, and readiness to
16 implement, any recommendations.
- 17 (b) The administrator of the state agency shall invite the
18 following to be members of the working group:
- 19 (1) Five members representing the insurance industry, to
20 be selected by the Hawaii Association of Health Plans;



1 (2) Five members representing licensed health care
2 professionals, two of whom shall be selected by the
3 Hawaii Medical Association, two of whom shall be
4 selected by the Healthcare Association of Hawaii, and
5 one of whom shall be selected by the center for
6 nursing; and

7 (3) Five members representing consumers of health care or
8 employers, two of whom shall be selected by the board
9 of trustees of the employer-union health benefits
10 trust fund, one of whom shall be a consumer selected
11 by the statewide health coordinating council, one of
12 whom shall be selected by the Hawaii Primary Care
13 Association, and one of whom shall be selected by Papa
14 Ola Lokahi.

15 The members of the working group shall elect a chairperson
16 and vice chairperson from amongst themselves. The director of
17 health, insurance commissioner, and administrator of the med-
18 QUEST division of the department of human services shall each
19 appoint an ex-officio advisor for the working group.

20 (c) The working group shall submit a report of its
21 findings and recommendations regarding information under



1 subsection (a), including any proposed legislation, to the
2 legislature no later than twenty days prior to the convening of
3 each regular session.

4 (d) The recommendations of the working group shall be
5 advisory only and not mandatory for health care facilities,
6 health care professionals, insurers, and utilization review
7 entities. The state agency shall promote the recommendations
8 among health care facilities, health care professionals,
9 insurers, and utilization review entities and shall publish
10 annually in its report to the legislature the extent and impacts
11 of its use in the State.

12 (e) The state agency shall seek transparency and agreement
13 among health care facilities, health care professionals,
14 insurers, utilization review entities, and consumers related to
15 the most respected clinical, scientific, and efficacious
16 standards, guidelines, and appropriate use criteria
17 corresponding to medical treatments and services most commonly
18 triggering prior authorization determinations to reduce
19 uncertainty around common prior authorization processes, and
20 also foster automation of prior authorization to the benefit of
21 all. The state agency shall explore means of achieving



1 statewide health sector agreement on means of automating prior
2 authorization determinations in the near future."

3 SECTION 3. Section 323D-2, Hawaii Revised Statutes, is
4 amended by adding six new definitions to be appropriately
5 inserted and to read as follows:

6 "Enrollee" means an individual eligible to receive health
7 care benefits from a health insurer in the State pursuant to a
8 health plan or other health insurance coverage. "Enrollee"
9 includes an enrollee's legally authorized representative.

10 "Health care professional" has the same meaning as defined
11 in section 431:26-101.

12 "Prior authorization" means the process by which a
13 utilization review entity determines the medical necessity or
14 medical appropriateness of otherwise covered health care
15 services before the health care services are rendered. "Prior
16 authorization" includes any health insurer's or utilization
17 review entity's requirement that an insured or a health care
18 facility or health care professional notify the insurer or
19 utilization review entity before providing health care services
20 to determine eligibility for payment or coverage.



1 "Prior authorization data" means data required for
2 compliance with federal law and the regulations of the federal
3 Centers for Medicare and Medicaid Services, including those
4 promulgated under title 42 Code of Federal Regulations sections
5 422.122(c), 438.210(f), 440.230(e)(3), and 457.732(c).

6 "Urgent health care service" means a health care service
7 which, without an expedited prior authorization could, in the
8 opinion of a physician with knowledge of the enrollee's medical
9 condition:

10 (1) Seriously jeopardize the life or health of the
11 enrollee or the ability of the enrollee to regain
12 maximum function; or

13 (2) Subject the enrollee to severe pain that cannot be
14 adequately managed without the care or treatment that
15 is the subject of the utilization review.

16 "Urgent health care service" includes mental and behavioral
17 health care services.

18 "Utilization review entity" means an individual or entity
19 that performs prior authorization for one or more of the
20 following entities:



- 1 (1) An insurer governed by chapter 431, article 10A; a
- 2 mutual benefit society governed by chapter 432,
- 3 article 1; a fraternal benefit society governed by
- 4 chapter 432, article 2; or a health maintenance
- 5 organization governed by chapter 432D; or
- 6 (2) Any other individual that provides, offers to provide,
- 7 or administers hospital, outpatient, medical,
- 8 prescription drug, or other health benefits to a
- 9 person treated by a health care facility or health
- 10 care professional in the State under a policy,
- 11 contract, plan, or agreement."

12 SECTION 4. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

SHPDA; Prior Authorization; Utilization Review Entities; Reporting; Health Care Appropriateness and Necessity Working Group; Reports

Description:

Requires utilization review entities to submit data relating to the prior authorization of health care services to the State Health Planning and Development Agency. Establishes the Health Care Appropriateness and Necessity Working Group within the State Health Planning and Development Agency and requires the working group to submit annual reports to the Legislature. Effective 7/1/3000. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

