

SENATE BILL No. 330

By Committee on Financial Institutions and Insurance

1-14

1 AN ACT concerning insurance; enacting the transparency in prior
2 authorization act; imposing certain requirements and limitations on the
3 use of prior authorization in the delivery of healthcare services.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) Sections 1 through 9, and amendments thereto, shall be
7 known and may be cited as the ensuring transparency in prior
8 authorization act.

9 (b) Sections 1 through 9, and amendments thereto, shall be a part of
10 and supplemental to article 32 of chapter 40 of the Kansas Statutes
11 Annotated, and amendments thereto.

12 (c) As used in sections 1 through 9, and amendments thereto:

13 (1) "Healthcare services" means services provided to an individual to
14 prevent, alleviate, cure or heal human illness or injury. "Healthcare
15 services" includes, but is not limited to, medical, chiropractic, dental or
16 vision services, hospitalization, pharmaceutical services, or care or
17 services incidental to services described in this paragraph.

18 (2) "Physician" means an individual licensed by the state board of
19 healing arts to practice medicine and surgery.

20 (3) "Prior authorization" means a determination that:

21 (A) Healthcare services proposed to be provided to a patient are
22 medically necessary and appropriate; and

23 (B) is made by an insurance company, health maintenance
24 organization or person contracting with an insurance company or health
25 maintenance organization.

26 (4) "Provider" means a:

27 (A) Person licensed by the state board of healing arts to practice any
28 branch of the healing arts;

29 (B) person who holds a temporary permit issued by the state board of
30 healing arts to practice any branch of the healing arts;

31 (C) medical care facility, as defined in K.S.A. 65-425, and
32 amendments thereto, that is licensed by the state of Kansas;

33 (D) podiatrist licensed by the state board of healing arts;

34 (E) health maintenance organization issued a certificate of authority
35 by the commissioner of insurance;

36 (F) optometrist licensed by the board of examiners in optometry;

- 1 (G) pharmacist licensed by the state board of pharmacy;
- 2 (H) licensed professional nurse who is authorized by the board of
- 3 nursing to practice as a registered nurse anesthetist;
- 4 (I) licensed professional nurse who has been granted a temporary
- 5 authorization to practice nurse anesthesia under K.S.A. 65-1153, and
- 6 amendments thereto;
- 7 (J) physician assistant licensed by the state board of healing arts;
- 8 (K) licensed advanced practice registered nurse who is certified by
- 9 the board of nursing in the role of registered nurse anesthetist while
- 10 functioning as a registered nurse anesthetist;
- 11 (L) licensed advanced practice registered nurse who has been granted
- 12 an authorization by the board of nursing to practice in the role of certified
- 13 nurse-midwife;
- 14 (M) dentist licensed by the Kansas dental board under the dental
- 15 practices act; or
- 16 (N) person licensed, registered, certified or otherwise authorized by
- 17 the behavioral sciences regulatory board to practice a profession.
- 18 (5) "Utilization review entity" means an individual or entity that
- 19 performs prior authorization for:
 - 20 (A) An employer with employees in Kansas who are covered under a
 - 21 health benefit plan or health insurance policy;
 - 22 (B) an insurer that writes health insurance policies;
 - 23 (C) a preferred provider organization or health maintenance
 - 24 organization; or
 - 25 (D) any other individual or entity that provides, offers to provide or
 - 26 administers hospital, outpatient, medical, prescription drug or other health
 - 27 benefits to a person treated by a healthcare professional in Kansas under a
 - 28 policy, plan or contract.
- 29 Sec. 2. (a) Not later than January 1, 2027, a utilization review entity
- 30 shall accept and respond to prior authorization requests under a pharmacy
- 31 benefit through a secure electronic transmission using the national council
- 32 for prescription drug programs script standard for electronic prior
- 33 authorization transactions. As used in this subsection, "secure electronic
- 34 transmission" does not include facsimile, proprietary payer portals,
- 35 electronic forms or any other technology that is not directly integrated with
- 36 a physician's electronic health record or electronic prescribing system.
- 37 (b) Not later than January 1, 2027, a utilization review entity shall
- 38 accept and respond to prior authorization requests for healthcare services
- 39 using a secure electronic portal at no cost to a healthcare provider. A
- 40 utilization review entity shall not require a healthcare provider to use a
- 41 specified secure electronic portal.
- 42 Sec. 3. (a) Not later than 24 hours after receiving all information
- 43 requested to complete a review of requested urgent healthcare services, a

1 utilization review entity shall:

2 (1) Render a prior authorization or adverse determination and notify
3 the enrollee and the enrollee's healthcare provider of such prior
4 authorization or adverse determination; and

5 (2) if the utilization review entity determines that additional
6 information is needed to render a prior authorization or adverse
7 determination, notify the healthcare provider that additional information is
8 needed.

9 (b) (1) A utilization review entity shall not require prior authorization
10 for pre-hospital transportation or the provision of emergency healthcare
11 services.

12 (2) A utilization review entity shall allow an enrollee and the
13 enrollee's healthcare provider not less than 24 hours following an
14 emergency admission or the provision of emergency healthcare services to
15 notify the utilization review entity of such admission or provision of
16 services. If an emergency admission or the provision of emergency
17 healthcare services occurs on a weekend or public holiday, a utilization
18 review entity shall not require notification until the next business day after
19 such admission or provision of services.

20 (3) Not later than two hours after receiving all information requested
21 to complete a review of requested emergency healthcare services, a
22 utilization review entity shall:

23 (A) Render a prior authorization or adverse determination and notify
24 the enrollee and the enrollee's healthcare provider of such prior
25 authorization or adverse determination; and

26 (B) if the utilization review entity determines that additional
27 information is needed to render a prior authorization or adverse
28 determination, notify the healthcare provider that additional information is
29 needed.

30 (4) If a patient receives emergency healthcare services that require an
31 immediate post-evaluation or post-stabilization, a utilization review entity
32 shall render a prior authorization or adverse determination not later than
33 two hours after receiving the request for such post-evaluation or post-
34 stabilization.

35 (c) After receiving all information requested to complete a review of
36 regular healthcare services, a utilization review entity shall:

37 (1) Not later than 14 calendar days after such receipt, render a prior
38 authorization or adverse determination and notify the enrollee and the
39 enrollee's healthcare provider of such prior authorization or adverse
40 determination; and

41 (2) if the utilization review entity determines that additional
42 information is needed to render a prior authorization or adverse
43 determination, not later than 48 hours after such receipt, notify the

1 healthcare provider that additional information is needed.

2 (d) If a utilization review entity requires a prior authorization for a
3 healthcare service for the treatment of a chronic or long-term care
4 condition:

5 (1) Such prior authorization shall remain valid for the length of the
6 treatment; and

7 (2) the utilization review entity shall not require the enrollee to obtain
8 an additional prior authorization for such healthcare service.

9 Sec. 4. A utilization review entity shall not:

10 (a) Require prior authorization for birth by cesarean section or
11 vaginal delivery or neonatal intensive care services; or

12 (b) require notification of such services as a condition of payment for
13 such services.

14 Sec. 5. (a) A utilization review entity shall not retroactively deny
15 prior authorization for a covered healthcare service unless the prior
16 authorization was based on fraudulent information provided by an enrollee
17 or the enrollee's healthcare provider.

18 (b) A utilization review entity shall not revoke, limit, condition or
19 restrict a prior authorization if the healthcare service subject to the prior
20 authorization is:

21 (1) Initiated within 45 business days after the date that the healthcare
22 provider received the prior authorization; and

23 (2) completed within the approved time period.

24 Sec. 6. (a) A healthcare provider may appeal any adverse
25 determination of a prior authorization request.

26 (b) Except as provided by subsection (c), a utilization review entity
27 shall complete adjudication of any requested appeal of an adverse
28 determination of a prior authorization request within 30 calendar days.

29 (c) If a healthcare provider indicates that a requested appeal is an
30 emergency, the utilization review entity shall provide for an expedited
31 phone appeal within 24 hours after the request. If the provider indicates
32 that the requested appeal is urgent, the utilization review entity shall
33 provide for such appeal within 72 hours after the request.

34 (d) A healthcare provider may prospectively request peer-to-peer
35 review in any appeal of an adverse determination of a prior authorization
36 request. If requested, such review shall be completed within 48 hours after
37 the request. For any appeal that includes a peer-to-peer review, the
38 utilization review committee shall provide a qualified peer who has
39 practiced in the same or similar specialty as the requesting healthcare
40 provider.

41 Sec. 7. (a) Each utilization review entity shall disclose all of the
42 utilization review entity's requirements and restrictions related to prior
43 authorization. Such requirements and restrictions shall be disclosed in a

1 publicly accessible manner on the utilization review entity's website.

2 (b) A utilization review entity shall provide notice of any change to
3 the utilization review entity's prior authorization requirements or
4 restrictions to each healthcare provider subject to such requirements or
5 restrictions.

6 (c) On or before January 1, 2027, and annually thereafter, each
7 utilization review entity shall submit a report to the commissioner of
8 insurance providing statistics about the utilization review entity's prior
9 authorization practices. Such statistics shall include, but not be limited to,
10 the:

- 11 (1) Percentage of initial approvals and initial adverse determinations;
- 12 (2) percentage of initial adverse determinations categorized by
13 healthcare specialty;
- 14 (3) largest percentage of medication and diagnostic test adverse
15 determinations;
- 16 (4) reasons most frequently cited for adverse determinations;
- 17 (5) number of appeals requested; and
- 18 (6) percentage of appeals approved and denied.

19 (d) On or before January 1, 2027, and annually thereafter, the
20 insurance commissioner shall publish on the Kansas department of
21 insurance's website all reports submitted pursuant to subsection (c).

22 Sec. 8. If any provision of the ensuring transparency in prior
23 authorization act or the application thereof to any person or circumstance
24 is held invalid or unconstitutional by court order, then the remainder of the
25 ensuring transparency in prior authorization act and the application thereof
26 to other persons or circumstances shall not be affected. It shall be
27 conclusively presumed that the legislature would have enacted the
28 remainder of the ensuring transparency in prior authorization act without
29 such invalid or unconstitutional provision.

30 Sec. 9. This act shall take effect and be in force from and after its
31 publication in the Kansas register.