General Assembly

Committee Bill No. 6

January Session, 2023

LCO No. **4966**

Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT CONCERNING UTILIZATION REVIEW AND HEALTH CARE CONTRACTS, HEALTH INSURANCE COVERAGE FOR NEWBORNS AND STEP THERAPY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

(1) "Evaluation" means:

(A) With respect to a health care service or course of treatment for which a participating provider does not have a prospective or concurrent review exemption, a review by a health carrier of prospective or concurrent review exemption requests submitted by such participating provider during the most recent evaluation period to determine the percentage of such requests that were approved, for a health carrier to evaluate whether to grant or deny a prospective or concurrent review exemption; or

(B) With respect to a health care service or course of treatment for which a participating provider has a prospective or concurrent review exemption, a retrospective review by the health carrier of a random sample of payable claims submitted by such participating provider

during the most recent evaluation period to determine the percentage of claims that would have been approved, based on meeting such health carrier's applicable medical necessity criteria at the time the service was provided, for such health carrier to evaluate whether to continue or rescind a prospective or concurrent review exemption; and

(2) "Evaluation period" means the six-month period preceding an evaluation. "Evaluation period" includes:

(A) For an initial determination of a prospective or concurrent review exemption grant or denial for any health care service or course of treatment, any six-month period that begins on January 1, 2024, July 1, 2024, or any subsequent six-month period that begins on any January first or July first of any subsequent year.

(B) After a denial or rescission of a prospective or concurrent review exemption for any health care service or course of treatment, the six-month period that commences on the first day following the end of the evaluation period that formed the basis of such denial or rescission of a prospective or concurrent review exemption; and

(C) For a notification of a prospective or concurrent review exemption rescission, the six-month period after the health carrier provided such notice of rescission to the participating provider or the next six-month period, provided there shall not be more than two months between the end of such evaluation period and the date such notice is received by such participating provider.

(b) For any health care contracts entered into, renewed or amended on or after January 1, 2024, no health carrier that provides or performs utilization review, including prospective and concurrent review, for any health care service or course of treatment shall require that any participating provider obtain prospective or concurrent review for any health care service or course of treatment if, in the immediately preceding six-month evaluation period, such health carrier approved not less than ninety per cent of such prospective or concurrent review

requests submitted by such participating provider for such health care service or course of treatment.

(c) Except for any exemption from the prospective or concurrent review requirements that shall continue without evaluation pursuant to subsection (f) of this section, each health carrier shall conduct an evaluation once every six months to determine whether each participating provider qualifies for an exemption from the prospective or concurrent review requirements pursuant to subsection (b) of this section.

(d) No participating provider shall be required to request an exemption from such prospective or concurrent review requirements in order to qualify for such exemption.

(e) Each participating provider's exemption from the prospective or concurrent review requirements pursuant to subsection (b) of this section, shall remain in effect until:

(1) The thirtieth day after the date on which the health carrier notifies such participating provider of such health carrier's determination to rescind such exemption pursuant to the provisions of subsection (g) of this section, provided such participating provider does not appeal such health carrier's determination in accordance with the provisions of subsection (i) of this section; or

(2) If such participating provider appeals such health carrier's determination in accordance with the provisions of subsection (i) of this section and the independent review organization affirms such health carrier's determination to rescind such exemption, the fifth day after the date such independent review organization affirms such health carrier's determination to rescind such exemption.

(f) If a health carrier does not finalize any determination to rescind such exemption from the prospective or concurrent review requirements in accordance with the provisions of subsection (e) of this

section, the participating provider shall automatically satisfy the exemption from the prospective or concurrent review requirements pursuant to subsection (b) of this section.

(g) Each health carrier may rescind any participating provider exemption from the prospective or concurrent review requirements under subsection (b) of this section only:

(1) During January or July of each year;

(2) If such health carrier makes a determination on the basis of a retrospective review of a random sample of not less than five and not more than twenty claims submitted by such participating provider during the most recent evaluation period, as set forth in subsection (b) of this section, that less than ninety per cent of such claims for the health care service or course of treatment met the medical necessity criteria that would have been used by such health carrier when conducting prospective or concurrent review for the health care service or course of treatment during the relevant evaluation period; and

(3) If such health carrier:

(A) Notifies such participating provider, in writing, not less than thirty days before such rescission is to take effect; and

(B) Provides with such notice pursuant to subparagraph (A) of this subdivision:

(i) The sample information used by such health carrier to make such determination pursuant to subdivision (2) of this subsection; and

(ii) A plain language description identifying the process for such participating provider to (I) submit an appeal of such rescission, and (II) seek an independent review of such determination.

(h) No health carrier may deny an exemption from the prospective or concurrent review requirements set forth in subsection (b) of this

section, unless such health carrier provides the participating provider with statistics and data for the relevant prospective or concurrent review evaluation period and information sufficient to demonstrate that such participating provider fails to meet the criteria for an exemption from the prospective or concurrent review requirements set forth in subsection (b) of this section for each health care service or course of treatment.

(i) (1) If a health carrier rescinds any participating provider's exemption from the prospective or concurrent review requirements pursuant to subsection (g) of this section, such participating provider may request an independent review of such health carrier's determination. Such independent review shall be conducted by an independent review organization. No health carrier shall require a participating provider to engage in an internal review process before requesting an independent review of an adverse determination of an exemption.

(2) Each health carrier that issues any adverse determination of a participating provider's exemption pursuant to subsection (g) of this section that is the subject of such independent review shall pay:

(A) The independent review organization for the cost of conducting such independent review requested by such participating provider pursuant to subdivision (1) of this subsection; and

(B) Reasonable fees for copies of all documents, communications, information and evidence relating to the adverse determination of such participating provider's exemption requested by such participating provider for purposes of such independent review pursuant to this subsection. The Insurance Commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement such fees that shall be paid by health carriers pursuant to this subparagraph.

(3) Each independent review organization shall complete the review

of any adverse determination of the participating provider's exemption not later than the thirtieth calendar day after the date that such participating provider files such request for such independent review under subdivision (1) of this subsection.

(4) The participating provider may request that the independent review organization consider a random sample of not less than five and not more than twenty claims submitted to the health carrier by such participating provider during the relevant evaluation period for the health care service or course of treatment that is subject to such independent review as part of such independent review organization's review. If such participating provider requests a review of such random sample, such independent review organization shall base its determination on the medical necessity of claims reviewed by such health carrier under subdivision (2) of subsection (g) of this section and by such independent review organization pursuant to this subdivision.

(j) (1) Each independent review determination shall be binding on the health carrier and the participating provider, except to the extent such health carrier or participating provider has other remedies available under federal or state law.

(2) No health carrier shall retroactively deny any health care service or course of treatment on the basis of a rescission of an exemption, even if such health carrier's determination to rescind such prospective or concurrent review exemption is affirmed by an independent review organization.

(3) If any independent review organization overturns any health carrier's determination of a prospective or concurrent review exemption, such health carrier:

(A) Shall not attempt to rescind such exemption before the end of the next evaluation period; and

(B) May only rescind such exemption after the end of the next

evaluation period, provided such health carrier complies with the provisions of subsections (g) to (i), inclusive, of this section.

(k) After a final determination or review affirming a rescission or denial of an exemption for a health care service or course of treatment, any participating provider shall be eligible for reconsideration of such exemption for the same health care service or course of treatment after the end of the six-month evaluation period that follows such evaluation period that formed the basis of the rescission or denial of such exemption.

(l) (1) No health carrier shall deny or reduce payment to a participating provider for any health care service or course of treatment for which such participating provider has qualified for an exemption from the prospective or concurrent review requirements pursuant to subsection (b) of this section based on medical necessity or appropriateness of care, unless such participating provider:

(A) Knowingly and materially misrepresented such health care service or course of treatment in a request for payment submitted to such health carrier; or

(B) Failed to substantially perform such health care service or course of treatment.

(2) No health carrier shall conduct a retrospective review of any health care service or course of treatment subject to an exemption pursuant to subsection (b) of this section, except:

(A) To determine if a participating provider qualifies for such exemption under subsection (b) of this section; or

(B) If such health carrier has reasonable cause to believe that a basis for denial exists under subdivision (1) of this subsection.

(3) Not later than five business days after any participating provider qualifies for an exemption from the prospective or concurrent review

requirements under subsection (b) of this section, the health carrier shall provide to such participating provider a written notice that includes:

(A) A statement that such participating provider qualifies for an exemption from the prospective or concurrent review requirements;

(B) A list of such participating provider's health care services or course of treatments, and health benefit plans to which such exemption applies; and

(C) A statement identifying the duration of such exemption.

(4) If a participating provider submits a prospective or concurrent review request to a health carrier for any health care service or course of treatment for which such participating provider qualifies for an exemption from the prospective or concurrent review requirements pursuant to subsection (b) of this section, such health carrier shall promptly provide written notice to such participating provider that includes:

(A) The information required under subparagraphs (A) to (C), inclusive, of subdivision (3) of this subsection; and

(B) Notification of such health carrier's payment requirements.

(m) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the provisions of this section.

Sec. 2. Section 38a-591c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) (1) Each health carrier shall contract with (A) health care professionals to administer such health carrier's utilization review program, and (B) clinical peers to evaluate the clinical appropriateness of an adverse determination.

(2) (A) Each utilization review program shall use documented clinical

review criteria that are based on sound clinical evidence and are evaluated periodically by the health carrier's organizational mechanism specified in subparagraph (F) of subdivision (2) of subsection (c) of section 38a-591b to assure such program's ongoing effectiveness.

(B) Except as provided in subdivisions (3), (4) and (5) of this subsection, a health carrier may develop its own clinical review criteria or it may purchase or license clinical review criteria from qualified vendors approved by the commissioner, provided such clinical review criteria conform to the requirements of subparagraph (A) of this subdivision.

(C) Each health carrier shall (i) post on its Internet web site (I) any clinical review criteria it uses, and (II) links to any rule, guideline, protocol or other similar criterion a health carrier may rely upon to make an adverse determination as described in subparagraph (F) of subdivision (1) of subsection (e) of section 38a-591d, as amended by this act, and (ii) make its clinical review criteria available upon request to authorized government agencies.

(3) For any utilization review for the treatment of a substance use disorder, as described in section 17a-458, the clinical review criteria used shall be: (A) The most recent edition of the American Society of Addiction Medicine Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions; or (B) clinical review criteria that the health carrier demonstrates to the Insurance Department is consistent with the most recent edition of the American Society of Addiction Medicine Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, except that nothing in this subdivision shall prohibit a health carrier from developing its own clinical review criteria or purchasing or licensing additional clinical review criteria from qualified vendors approved by the commissioner, to address advancements in technology or types of care for the treatment of a substance use disorder, that are not covered in the most recent edition of the American Society of Addiction Medicine Treatment

Criteria for Addictive, Substance-Related, and Co-Occurring Conditions. Any such clinical review criteria developed by a health carrier or purchased or licensed from a qualified vendor shall conform to the requirements of subparagraph (A) of subdivision (2) of this subsection.

(4) For any utilization review for the treatment of a child or adolescent mental disorder, the clinical review criteria used shall be: (A) The most recent guidelines of the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Service Intensity Instrument; or (B) clinical review criteria that the health carrier demonstrates to the Insurance Department is consistent with the most recent guidelines of the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Service Intensity Instrument, except that nothing in this subdivision shall prohibit a health carrier from developing its own clinical review criteria or purchasing or licensing additional clinical review criteria from qualified vendors approved by the commissioner, to address advancements in technology or types of care for the treatment of a child or adolescent mental disorder, that are not covered in the most recent guidelines of the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Service Intensity Instrument. Any such clinical review criteria developed by a health carrier or purchased or licensed from a qualified vendor shall conform to the requirements of subparagraph (A) of subdivision (2) of this subsection.

(5) For any utilization review for the treatment of an adult mental disorder, the clinical review criteria used shall be: (A) The most recent guidelines of the American Psychiatric Association or the most recent Standards and Guidelines of the Association for Ambulatory Behavioral Healthcare; or (B) clinical review criteria that the health carrier demonstrates to the Insurance Department is consistent with the most recent guidelines of the American Psychiatric Association or the most recent Standards and Guidelines of the Association for Ambulatory Behavioral Healthcare, except that nothing in this subdivision shall

prohibit a health carrier from developing its own clinical review criteria or purchasing or licensing additional clinical review criteria from qualified vendors approved by the commissioner, to address advancements in technology or types of care for the treatment of an adult mental disorder, that are not covered in the most recent guidelines of the American Psychiatric Association or the most recent Standards and Guidelines of the Association for Ambulatory Behavioral Healthcare. Any such clinical review criteria developed by a health carrier or purchased or licensed from a qualified vendor shall conform to the requirements of subparagraph (A) of subdivision (2) of this subsection.

(b) Each health carrier shall:

(1) Have procedures in place to ensure that (A) the health care professionals administering such health carrier's utilization review program are applying the clinical review criteria consistently in utilization review determinations, and (B) the appropriate or required individual or individuals are being designated to conduct utilization reviews;

(2) Have data systems sufficient to support utilization review program activities and to generate management reports to enable the health carrier to monitor and manage health care services effectively;

(3) Provide covered persons and participating providers with access to its utilization review staff through a toll-free telephone number or any other free calling option or by electronic means;

(4) Coordinate the utilization review program with other medical management activity conducted by the health carrier, such as quality assurance, credentialing, contracting with health care professionals, data reporting, grievance procedures, processes for assessing member satisfaction and risk management; and

(5) Routinely assess the effectiveness and efficiency of its utilization

review program.

(c) If a health carrier delegates any utilization review activities to a utilization review company, the health carrier shall maintain adequate oversight, which shall include (1) a written description of the utilization review company's activities and responsibilities, including such company's reporting requirements, (2) evidence of the health carrier's formal approval of the utilization review company program, and (3) a process by which the health carrier shall evaluate the utilization review company's performance.

(d) When conducting utilization review, the health carrier shall (1) collect only the information necessary, including pertinent clinical information, to make the utilization review or benefit determination, and (2) ensure that such review is conducted in a manner to ensure the independence and impartiality of the individual or individuals involved in making the utilization review or benefit determination. No health carrier shall make decisions regarding the hiring, compensation, termination, promotion or other similar matters of such individual or individuals based on the likelihood that the individual or individuals will support the denial of benefits.

(e) Not later than January 1, 2024, each health carrier shall establish an electronic program to provide for the secure electronic:

(1) Filing of prospective and concurrent review requests, and other requests for prospective or concurrent utilization reviews, by hospital and health care professionals with such health carrier, and submission of available clinical information in support of such requests; and

(2) Transmission of such health carrier's responses to such requests described in subdivision (1) of this subsection.

Sec. 3. Section 38a-591d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) (1) Each health carrier shall maintain written procedures for (A)

utilization review and benefit determinations, (B) expedited utilization review and benefit determinations with respect to prospective urgent care requests and concurrent review urgent care requests, and (C) notifying covered persons or covered persons' authorized representatives of such review and benefit determinations. Each health carrier shall make such review and benefit determinations within the specified time periods under this section.

(2) In determining whether a benefit request shall be considered an urgent care request, an individual acting on behalf of a health carrier shall apply the judgment of a prudent layperson who possesses an average knowledge of health and medicine, except that any benefit request (A) determined to be an urgent care request by a health care professional with knowledge of the covered person's medical condition, or (B) specified under subparagraph (B) or (C) of subdivision (38) of section 38a-591a shall be deemed an urgent care request.

(3) (A) At the time a health carrier notifies a covered person, a covered person's authorized representative or a covered person's health care professional of an initial adverse determination that was based, in whole or in part, on medical necessity, of a concurrent or prospective utilization review or of a benefit request, the health carrier shall notify the covered person's health care professional (i) of the opportunity for a conference as provided in subparagraph (B) of this subdivision, and (ii) that such conference shall not be considered a grievance of such initial adverse determination as long as a grievance has not been filed as set forth in subparagraph (B) of this subdivision.

(B) After a health carrier notifies a covered person, a covered person's authorized representative or a covered person's health care professional of an initial adverse determination that was based, in whole or in part, on medical necessity, of a concurrent or prospective utilization review or of a benefit request, the health carrier shall offer a covered person's health care professional the opportunity to confer, at the request of the covered person's health care professional, with a clinical peer of such

health carrier, provided such covered person, covered person's authorized representative or covered person's health care professional has not filed a grievance of such initial adverse determination prior to such conference. Such conference shall not be considered a grievance of such initial adverse determination.

(b) With respect to a nonurgent care request:

(1) (A) For a prospective or concurrent review request, a health carrier shall make a determination within a reasonable period of time appropriate to the covered person's medical condition, but not later than **[**fifteen calendar days**]** seventy-two hours after the date the health carrier receives such request, and shall notify the covered person and, if applicable, the covered person's authorized representative of such determination, whether or not the carrier certifies the provision of the benefit.

(B) If the review under subparagraph (A) of this subdivision is a review of a grievance involving a concurrent review request, pursuant to 45 CFR 147.136, as amended from time to time, the treatment shall be continued without liability to the covered person until the covered person has been notified of the review decision.

(2) For a retrospective review request, a health carrier shall make a determination within a reasonable period of time, but not later than thirty calendar days after the date the health carrier receives such request.

(3) The time periods specified in subdivisions (1) and (2) of this subsection may be extended once by the health carrier for up to **[**fifteen calendar days**]** seventy-two hours, provided the health carrier:

(A) Determines that an extension is necessary due to circumstances beyond the health carrier's control; and

(B) Notifies the covered person and, if applicable, the covered person's authorized representative prior to the expiration of the initial

time period, of the circumstances requiring the extension of time and the date by which the health carrier expects to make a determination.

(4) (A) If the extension pursuant to subdivision (3) of this subsection is necessary due to the failure of the covered person or the covered person's authorized representative to provide information necessary to make a determination on the request, the health carrier shall:

(i) Specifically describe in the notice of extension the required information necessary to complete the request; and

(ii) Provide the covered person and, if applicable, the covered person's authorized representative with not less than forty-five calendar days after the date of receipt of the notice to provide the specified information.

(B) If the covered person or the covered person's authorized representative fails to submit the specified information before the end of the period of the extension, the health carrier may deny certification of the benefit requested.

(c) With respect to an urgent care request:

(1) (A) Unless the covered person or the covered person's authorized representative has failed to provide information necessary for the health carrier to make a determination and except as specified under subparagraph (B) of this subdivision, the health carrier shall make a determination as soon as possible, taking into account the covered person's medical condition, but not later than **[**forty-eight**]** twenty-four hours after the health carrier receives such request, **[**or seventy-two hours after such health carrier receives such request if any portion of such forty-eight-hour period falls on a weekend,**]** provided, if the urgent care request is a concurrent review request to extend a course of treatment beyond the initial period of time or the number of treatments, such request is made **[**at least**]** not less than twenty-four hours prior to the expiration of the prescribed period of time or number of treatments.

(B) Unless the covered person or the covered person's authorized representative has failed to provide information necessary for the health carrier to make a determination, for an urgent care request specified under subparagraph (B) or (C) of subdivision (38) of section 38a-591a, the health carrier shall make a determination as soon as possible, taking into account the covered person's medical condition, but not later than twenty-four hours after the health carrier receives such request, provided, if the urgent care request is a concurrent review request to extend a course of treatment beyond the initial period of time or the number of treatments, such request is made **[**at least**]** not less than twenty-four hours prior to the expiration of the prescribed period of time or number of treatments.

(2) (A) If the covered person or the covered person's authorized representative has failed to provide information necessary for the health carrier to make a determination, the health carrier shall notify the covered person or the covered person's representative, as applicable, as soon as possible, but not later than twenty-four hours after the health carrier receives such request.

(B) The health carrier shall provide the covered person or the covered person's authorized representative, as applicable, a reasonable period of time to submit the specified information, taking into account the covered person's medical condition, but not less than forty-eight hours after notifying the covered person or the covered person's authorized representative, as applicable.

(3) The health carrier shall notify the covered person and, if applicable, the covered person's authorized representative of its determination as soon as possible, but not later than forty-eight hours after the earlier of (A) the date on which the covered person and the covered person's authorized representative, as applicable, provides the specified information to the health carrier, or (B) the date on which the specified information was to have been submitted.

(d) (1) **[**Whenever a health carrier receives a review request from a

covered person or a covered person's authorized representative that fails to meet the health carrier's filing procedures, the health carrier shall notify the covered person and, if applicable, the covered person's authorized representative of such failure not later than five calendar days after the health carrier receives such request, except that for an urgent care request, the health carrier shall notify the covered person and, if applicable, the covered person's authorized representative of such failure not later than twenty-four hours after the health carrier receives such request.**]** With respect to prospective and concurrent review requests, each health carrier shall:

(A) Process prospective and concurrent review requests twenty-four hours a day, seven days a week, including holidays;

(B) Acknowledge receipt of each nonurgent prospective and concurrent review request as soon as practicable, but not later than twenty-four hours following such health carrier's receipt of such prospective and concurrent review request, except that such health carrier shall respond in less time if such a response is required by applicable federal law.

(2) **[**If the health carrier provides such notice orally, the health carrier shall provide confirmation in writing to the covered person and the covered person's health care professional of record not later than five calendar days after providing the oral notice**]** No health carrier shall require a health care professional or hospital to submit additional information that was not reasonably available to such health care professional or hospital at the time that such health care professional or hospital filed the prospective or concurrent review request with such health carrier.

(e) Each health carrier shall provide promptly to a covered person and, if applicable, the covered person's authorized representative a notice of an adverse determination.

(1) Such notice may be provided in writing or by electronic means

and shall set forth, in a manner calculated to be understood by the covered person or the covered person's authorized representative:

(A) Information sufficient to identify the benefit request or claim involved, including the date of service, if applicable, the health care professional and the claim amount;

(B) The specific reason or reasons for the adverse determination, including, upon request, a listing of the relevant clinical review criteria, including professional criteria and medical or scientific evidence and a description of the health carrier's standard, if any, that were used in reaching the denial;

(C) Reference to the specific health benefit plan provisions on which the determination is based;

(D) A description of any additional material or information necessary for the covered person to perfect the benefit request or claim, including an explanation of why the material or information is necessary to perfect the request or claim;

(E) A description of the health carrier's internal grievance process that includes (i) the health carrier's expedited review procedures, (ii) any time limits applicable to such process or procedures, (iii) the contact information for the organizational unit designated to coordinate the review on behalf of the health carrier, and (iv) a statement that the covered person or, if applicable, the covered person's authorized representative is entitled, pursuant to the requirements of the health carrier's internal grievance process, to receive from the health carrier, free of charge upon request, reasonable access to and copies of all documents, records, communications and other information and evidence regarding the covered person's benefit request;

(F) (i) (I) A copy of the specific rule, guideline, protocol or other similar criterion the health carrier relied upon to make the adverse determination, or (II) a statement that a specific rule, guideline, protocol

or other similar criterion of the health carrier was relied upon to make the adverse determination and that a copy of such rule, guideline, protocol or other similar criterion will be provided to the covered person free of charge upon request, with instructions for requesting such copy, and (ii) the links to such rule, guideline, protocol or other similar criterion on such health carrier's Internet web site;

(G) If the adverse determination is based on medical necessity or an experimental or investigational treatment or similar exclusion or limit, the written statement of the scientific or clinical rationale for the adverse determination and (i) an explanation of the scientific or clinical rationale used to make the determination that applies the terms of the health benefit plan to the covered person's medical circumstances or (ii) a statement that an explanation will be provided to the covered person free of charge upon request, and instructions for requesting a copy of such explanation;

(H) A statement explaining the right of the covered person to contact the commissioner's office or the Office of the Healthcare Advocate at any time for assistance or, upon completion of the health carrier's internal grievance process, to file a civil action in a court of competent jurisdiction. Such statement shall include the contact information for said offices; and

(I) A statement, expressed in language approved by the Healthcare Advocate and prominently displayed on the first page or cover sheet of the notice using a call-out box and large or bold text, that if the covered person or the covered person's authorized representative chooses to file a grievance of an adverse determination, (i) such appeals are sometimes successful, (ii) such covered person or covered person's authorized representative may benefit from free assistance from the Office of the Healthcare Advocate, which can assist such covered person or covered person's authorized representative with the filing of a grievance pursuant to 42 USC 300gg-93, as amended from time to time, (iii) such covered person or covered person's authorized representative is entitled

and encouraged to submit supporting documentation for the health carrier's consideration during the review of an adverse determination, including narratives from such covered person or covered person's authorized representative and letters and treatment notes from such covered person's health care professional, and (iv) such covered person or covered person's authorized representative has the right to ask such covered person's health care professional for such letters or treatment notes.

(2) Upon request pursuant to subparagraph (E) of subdivision (1) of this subsection, the health carrier shall provide such copies in accordance with subsection (a) of section 38a-591n.

(f) If the adverse determination is a rescission, the health carrier shall include with the advance notice of the application for rescission required to be sent to the covered person, a written statement that includes:

(1) Clear identification of the alleged fraudulent act, practice or omission or the intentional misrepresentation of material fact;

(2) An explanation as to why the act, practice or omission was fraudulent or was an intentional misrepresentation of a material fact;

(3) A disclosure that the covered person or the covered person's authorized representative may file immediately, without waiting for the date such advance notice of the proposed rescission ends, a grievance with the health carrier to request a review of the adverse determination to rescind coverage, pursuant to sections 38a-591e and 38a-591f;

(4) A description of the health carrier's grievance procedures established under sections 38a-591e and 38a-591f, including any time limits applicable to those procedures; and

(5) The date such advance notice of the proposed rescission ends and the date back to which the coverage will be retroactively rescinded.

(g) (1) Whenever a health carrier fails to strictly adhere to the requirements of this section with respect to making utilization review and benefit determinations of a benefit request or claim, the covered person shall be deemed to have exhausted the internal grievance process of such health carrier and may file a request for an external review in accordance with the provisions of section 38a-591g, regardless of whether the health carrier asserts it substantially complied with the requirements of this section or that any error it committed was de minimis.

(2) A covered person who has exhausted the internal grievance process of a health carrier may, in addition to filing a request for an external review, pursue any available remedies under state or federal law on the basis that the health carrier failed to provide a reasonable internal grievance process that would yield a decision on the merits of the claim.

Sec. 4. Section 38a-490 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Each individual health insurance policy delivered, issued for delivery, renewed, amended or continued in this state providing coverage of the type specified in subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469 for a family member of the insured or subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

(b) Coverage for such newly born child shall consist of coverage for injury and sickness including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities within the limits of the policy.

(c) If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that

notification of birth of such newly born child and payment of the required premium or fees shall be furnished to the insurer, hospital service corporation, medical service corporation or health care center not later than **[**sixty-one**]** one hundred twenty-one days after the date of birth or the date of discharge from the hospital, whichever is later, in order to continue coverage beyond such **[**sixty-one-day**]** period, provided failure to furnish such notice or pay such premium or fees shall not prejudice any claim originating within such **[**sixty-one-day**]** period.

Sec. 5. Section 38a-516 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) Each group health insurance policy delivered, issued for delivery, renewed, amended or continued in this state providing coverage of the type specified in subdivisions (1), (2), (4), (6), (11) and (12) of section 38a-469 for a family member of the insured or subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

(b) Coverage for such newly born child shall consist of coverage for injury and sickness including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities within the limits of the policy.

(c) If payment of a specific premium fee is required to provide coverage for a child, the policy may require that notification of birth of such newly born child and payment of the required premium or fees shall be furnished to the insurer, hospital service corporation, medical service corporation or health care center not later than **[**sixty-one**]** one hundred twenty-one days after the date of birth or the date of discharge from the hospital, whichever is later, in order to continue coverage beyond such **[**sixty-one-day**]** period, provided failure to furnish such notice or pay such premium shall not prejudice any claim originating within such **[**sixty-one-day**]** period.

Sec. 6. Subsection (a) of section 38a-510 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) No insurance company, hospital service corporation, medical service corporation, health care center or other entity delivering, issuing for delivery, renewing, amending or continuing an individual health insurance policy or contract that provides coverage for prescription drugs may:

(1) Require any person covered under such policy or contract to obtain prescription drugs from a mail order pharmacy as a condition of obtaining benefits for such drugs; or

(2) Require, if such insurance company, hospital service corporation, medical service corporation, health care center or other entity uses step therapy for such drugs, the use of step therapy for:

(A) **[**any**]** Any prescribed drug for longer than sixty days; **[**,**]** or

(B) **[**a**]** A prescribed drug for **[**cancer**]** treatment of a behavioral health condition or a chronic, disabling or life-threatening condition or disease for an insured who has been diagnosed with **[**stage IV metastatic cancer**]** such a condition or disease, provided such prescribed drug is in compliance with approved federal Food and Drug Administration indications.

(3) At the expiration of the time period specified in subparagraph (A) of subdivision (2) of this subsection, **[**or for a prescribed drug described in subparagraph (B) of subdivision (2) of this subsection,**]** an insured's treating health care provider may deem such step therapy drug regimen clinically ineffective for the insured, at which time the insurance company, hospital service corporation, medical service corporation, health care center or other entity shall authorize dispensation of and coverage for the drug prescribed by the insured's treating health care provider, provided such drug is a covered drug under such policy or

contract. If such provider does not deem such step therapy drug regimen clinically ineffective or has not requested an override pursuant to subdivision (1) of subsection (b) of this section, such drug regimen may be continued. For purposes of this section, "step therapy" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition are to be prescribed.

Sec. 7. Subsection (a) of section 38a-544 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) No insurance company, hospital service corporation, medical service corporation, health care center or other entity delivering, issuing for delivery, renewing, amending or continuing a group health insurance policy or contract that provides coverage for prescription drugs may:

(1) Require any person covered under such policy or contract to obtain prescription drugs from a mail order pharmacy as a condition of obtaining benefits for such drugs; or

(2) Require, if such insurance company, hospital service corporation, medical service corporation, health care center or other entity uses step therapy for such drugs, the use of step therapy for:

(A) **[**any**]** Any prescribed drug for longer than sixty days; **[**,**]** or

(B) **[**a**]** A prescribed drug for **[**cancer**]** treatment of a behavioral health condition or a chronic, disabling or life-threatening condition or disease for an insured who has been diagnosed with **[**stage IV metastatic cancer**]** such a condition or disease, provided such prescribed drug is in compliance with approved federal Food and Drug Administration indications.

(3) At the expiration of the time period specified in subparagraph (A) of subdivision (2) of this subsection, **[**or for a prescribed drug described in subparagraph (B) of subdivision (2) of this subsection,**]** an insured's

treating health care provider may deem such step therapy drug regimen clinically ineffective for the insured, at which time the insurance company, hospital service corporation, medical service corporation, health care center or other entity shall authorize dispensation of and coverage for the drug prescribed by the insured's treating health care provider, provided such drug is a covered drug under such policy or contract. If such provider does not deem such step therapy drug regimen clinically ineffective or has not requested an override pursuant to subdivision (1) of subsection (b) of this section, such drug regimen may be continued. For purposes of this section, "step therapy" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition are to be prescribed.

Sec. 8. (NEW) (*Effective October 1, 2023*) No health carrier shall require a prospective or concurrent review of a recurring health care service or prescription drug after such health carrier has certified such health care service or prescription drug through utilization review. Nothing in this section shall require a health carrier to cover any health care service or prescription drug for a health condition of which the terms of coverage completely exclude such health care service or prescription drug from the policy's covered benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2023*	New section
Sec. 2	*October 1, 2023*	38a-591c
Sec. 3	*October 1, 2023*	38a-591d
Sec. 4	*October 1, 2023*	38a-490
Sec. 5	*October 1, 2023*	38a-516
Sec. 6	*October 1, 2023*	38a-510(a)
Sec. 7	*October 1, 2023*	38a-544(a)
Sec. 8	*October 1, 2023*	New section

Statement of Purpose:

To: (1) Establish a utilization review exemption standard for certain participating providers; (2) require that each health carrier process

utilization review requests more efficiently; (3) require that each health carrier develop an electronic prior authorization process; (4) extend the time period within which an insured shall provide notice of the birth of a newborn and pay any required premium or subscription fee to continue the newborn's coverage beyond such period; (5) prohibit health carriers from requiring the use of step therapy for drugs prescribed to treat behavioral health conditions or chronic, disabling or life-threatening conditions or diseases; and (6) to prohibit health carriers from requiring utilization review of a health care service or prescription drug after it has been certified through utilization review.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.; SEN. DUFF, 25th Dist.
SEN. ANWAR, 3rd Dist.; SEN. CABRERA, 17th Dist.
SEN. COHEN, 12th Dist.; SEN. FLEXER, 29th Dist.
SEN. FONFARA, 1st Dist.; SEN. GASTON, 23rd Dist.
SEN. HOCHADEL, 13th Dist.; SEN. KUSHNER, 24th Dist.
SEN. LESSER, 9th Dist.; SEN. LOPES, 6th Dist.
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SEN. WINFIELD, 10th Dist.; REP. NOLAN, 39th Dist.
REP. ELLIOTT, 88th Dist.

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