

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 210

Introduced by Bostar, 29.

Read first time January 10, 2023

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to adopt the Prior Authorization
- 2 Reform Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Prior Authorization Reform Act.

3 Sec. 2. For purposes of the Prior Authorization Reform Act:

4 (1) Department means the Department of Insurance;

5 (2)(a) Health care service means a health care procedure, treatment,
6 or service which is:

7 (i) Provided by a health care facility licensed in the State of
8 Nebraska; or

9 (ii) Provided by a physician or osteopathic physician or within the
10 scope of practice for which a health care professional is licensed in the
11 State of Nebraska; and

12 (b) Health care service includes the provision of any pharmaceutical
13 product or service or durable medical equipment;

14 (3)(a) Health carrier means an entity that is subject to the
15 insurance laws, rules, and regulations of the State of Nebraska or is
16 subject to the jurisdiction of the Director of Insurance and that
17 contracts or offers to contract to provide, deliver, arrange for, pay
18 for, or reimburse any of the costs of any health care service, including
19 a sickness and accident insurance company, a health maintenance
20 organization, a nonprofit hospital and health service organization, or
21 any other entity providing a plan of health insurance, health benefits,
22 or health care services; and

23 (b) Health carrier includes a managed-care organization;

24 (4)(a) Prior authorization means the process by which a health
25 carrier or utilization review entity determines the medical necessity or
26 medical appropriateness of any otherwise covered health care service
27 prior to the rendering of such health care service; and

28 (b) Prior authorization includes any requirement of a health carrier
29 or utilization review entity that an insured individual or health care
30 provider notify the health carrier or utilization review entity prior to
31 providing a health care service; and

1 (5) Utilization review entity means an individual or entity that
2 performs prior authorization for a health carrier.

3 Sec. 3. By January 1, 2025, each health carrier shall adopt a
4 program, developed in consultation with the health care providers
5 participating with the health carrier, that promotes the modification of
6 prior authorization requirements based on the following:

7 (1) The performance of health care providers with respect to
8 adherence to nationally recognized, evidence-based medical guidelines,
9 appropriateness, efficiency, and other quality criteria;

10 (2) Involvement of health care providers with a health carrier to
11 participate in a financial risk-sharing payment plan, that includes
12 downside risk; and

13 (3) The specialty, experience, or other factors relating to one or
14 more specific health care providers.

15 Sec. 4. (1) Any program adopted as required by section 3 of this
16 act shall offer any provider of health care services that has at least a
17 ninety percent approval rate of prior authorization requests over the
18 immediately preceding six months at least one alternative to prior
19 authorization, including an exemption from prior authorization
20 requirements.

21 (2) At least annually, a health carrier or utilization review entity
22 shall reexamine the prescribing or ordering patterns of each
23 participating provider of health care services and reevaluate the
24 provider's status regarding exemption from or eligibility for other
25 alternatives to prior authorization requirements.

26 Sec. 5. By June 1, 2024, and each June 1 thereafter, each health
27 carrier shall report to the department, on a form issued by the
28 department, the following aggregated trend data related to the health
29 carrier's prior authorization practices and experience for the preceding
30 twelve-month period:

31 (1) The number of prior authorization requests;

- 1 (2) The number of prior authorization requests denied;
- 2 (3) The number of appeals received;
- 3 (4) The number of adverse determinations reversed on appeal;
- 4 (5) The ten individual services most frequently denied; and
- 5 (6) The ten reasons most frequently used to deny prior authorization
- 6 requests.

7 Sec. 6. By October 1, 2024, and each October 1 thereafter, the
8 department shall aggregate, deidentify, and compile into a report the
9 data collected pursuant to section 5 of this act. The report shall not
10 identify the name of any health carrier submitting data. The report shall
11 be posted on the department's Internet website accessible to the public.