PROTECT PATIENTS: Reform Utilization Review Techniques

(Prior Authorization/Step Therapy)

Endorsed By:

The Maryland Medical Society (MedChi)
The ALS Association
The Hemophilia Foundation of Maryland
Nurse Practitioner Association of Maryland
Maryland Patient Care and Access Coalition
Maryland Academy of Advanced Practice Clinicians
Global Healthy Living Foundation
Alkermes
Maryland State Dental Association
Maryland Society of Oral Maxillofacial Surgeon
Otsuka
Nomi Health
Maryland Nurses Association
American College of Nurse Midwives
Maryland Community Health Systems
Community Behavior Health Association of Maryland
Maryland Chapter of American College of Emergency Physicians
Maryland Occupational Therapy Association
Maryland Psychiatric Society
Baltimore County Medical Society
Montgomery County Medical Society
Baltimore City Medical Society
Anne Arundel & Howard County Medical Society
Prince George's County Medical Society
Washington Psychiatric Society
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Maryland Podiatric Medical Association
US Oncology
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Maryland Oncology and Hematology
Maryland Society of Eye Physicians and Surgeons
Maryland/DC Society of Clinical Oncologists
Maryland Chapter of the American Academy of Pediatrics
Maryland Dermatologic Society
American Physical Therapy Association, Maryland
American College of Obstetricians and Gynecologists, Maryland Section
Mid-Atlantic Association of Community Health Centers
Maryland Academy of Family Physicians
Maryland Medical Group Management Association
Maryland Chiropractic Association
Maryland Clinical Social Work Coalition
Harford County Medical Society
Maryland Radiological Society
Maryland Neurological Society
Allegany County Medical Society
Queen Anne's County Medical Society
Association of Clinical Oncology
Immune Deficiency Foundation
International Foundation for Autoimmune and Autoinflammatory Arthritis
Epilepsy Foundation
National Organization for Rare Disorders
Cancer*Care*
National Multiple Sclerosis Society
MarylandRARE
National Eczema Association
Maryland Hospital Association
Arthritis Foundation

Why Utilization Review (UR) Reform is Needed:

Health insurance carriers engage in a process known as "utilization review," which is a process where the carrier, in advance of a health care service being rendered, reviews the request to determine if the service is medically necessary. The two most common types are "prior authorization," which is requesting approval in advance from the carrier and "step therapy," where the patient must try and fail on other medications (often less expensive) before "stepping up" to another medication.

- The 2021 Report on the Health Care Appeals and Grievances Law (released December 1, 2022) states that, in 2021, carriers rendered 81,143 adverse decisions (e.g., denials of health care services).
- In 2022, the Maryland Insurance Administration (MIA) modified or reversed the carrier's decision (or the carrier reversed its own decision during the course of investigation) 72.4% of the time on filed complaints, up from 70.5% in 2021. This means that in more than 7 out of 10 cases, the MIA ruled that the carrier was wrong, and that the patient should have received the health care service.
- In 2021, the American Medical Association conducted a survey on the impact that prior authorizations have on physicians and patients and found that 93% of physicians reported delays in access to necessary

care; and 82% of physicians reported that patients abandoned their recommended course of treatment because of prior authorization denials.

Reform Prior Authorization (House Bill 305/Senate Bill 308)

House Bill 305/Senate Bill 308 will protect patients by:

1. Allowing a patient to stay on a prescription drug without another prior authorization if the insurer previously approved the drug and the patient continues to be successfully treated by the drug.
2. Exempting prescription drugs from requiring a prior authorization for dosage changes provided that the change is consistent with federal FDA labeled dosages or when the drug is generic.
3. Eliminating the need for the patient to obtain more than one prior authorization for the same medication during the same treatment when the treatment is divided into two or more prescriptions because of differing formulations of the drug.
4. Requiring that the criteria used in determining whether care is medically necessary is evidence-based and peer reviewed and that it is developed by organizations that work directly with health care providers or by a professional medical specialty society.
5. Requiring that the physician making or involved in making the denial is knowledgeable of and experienced in the diagnosis and the treatment under review.
6. Mandating that, prior to making a denial, the insurance carrier (i.e., physician responsible for determining denials) notifies the insured's physician or health care practitioner of the potential denial and makes him or herself available to discuss the basis for the denial and the medical necessity of the health care service.
7. Requiring that the physician (or dentist) who either is responsible for determining denials or who serves on the panel making the decisions possess a current and valid Maryland license to practice medicine (or dentistry).
8. Studying how to standardize electronic systems across all carriers (rather than each carrier having their own system) with the same data points and using a single point of entry, such as CRISP.
9. Studying the feasibility of implementing a "gold card" standard in Maryland, which would exempt health care practitioners who meet certain standards from prior authorization requirements.

Reform Step Therapy (Senate Bill 515/House Bill 785)

Maryland's law currently only allows a patient to override a step therapy protocol if the patient has already been on a drug for 180 days and the prescriber attests that the patient is doing well on the drug. This legislation recognizes there may be other clinical reasons why a patient cannot or should not take a certain drug. Therefore, the legislation will require a carrier to establish a process for requesting an exception to a step therapy protocol if, based on the professional judgement of a prescriber, the prescription drug required to be used by a step therapy protocol:

- is contraindicated or will likely cause an adverse reaction, physical harm, or mental harm to the patient; or
- is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen; or
- the patient is stable on a prescription drug selected by their health care provider; or
- the patient has already tried a prescription drug in the same pharmacologic class or has the same mechanism of action as the step therapy drug and was discontinued by the prescriber due to lack of efficacy or effectiveness, diminished effect, or an adverse event.

This legislation also exempts from step therapy protocols a prescription drug that is used to treat the insured or enrollee's mental disorder or condition under certain conditions.

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