OFFICE OF THE
HEALTH INSURANCE COMMISSIONER
STATE OF RHODE ISLAND

April 1, 2025

The Honorable Susan R. Donovan
Chairperson, House Committee on Health and Human Services
Rhode Island State House
82 Smith Street
Providence, RI 02903

RE: H-5024 – AN ACT RELATING TO INSURANCE – BENEFIT DETERMINATION AND UTILIZATION REVIEW ACT

Dear Chairperson Donovan:

I write on behalf of the Office of the Health Insurance Commissioner (OHIC) regarding House Bill 5024. OHIC notes that the bill's new proposed § 27-18.9-16(a) seeks to address an issue that is currently addressed by RI Gen Law § 27-18.9-5 (b)(3).[1] Rather than have two subsections of the Benefit Determination and Utilization Review Act that partially conflict with each other, an amendment of RI Gen Law § 27-18.9-5 (b)(3) would have the benefit of preventing unnecessary confusion and ambiguity.

Regarding the bill's new proposed § 27-18.9-16(b), to the extent it is not intended to create a new state benefit mandate, the language could be clarified to instead prohibit prospective or concurrent non-administrative benefit determinations for certain prescription medications. Also, to better align the bill's language with OHIC's understanding of the bill's explanation, consider replacing subsections (b)(1-3) with the following language: (1) that is used in the treatment of alcohol or opioid use disorder and contains Methadone, Buprenorphine or Naltrexone; or (2) That is used in the treatment of alcohol or opioid use disorder and was approved before the effective date of this section by the United States Food and Drug Administration for the mitigation of opioid withdrawal symptoms.

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[1] Proposed §27-18.9-16(a) provides "*A utilization review decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer or its designee for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person, authorized person, or the provider.*"
Currently, RI Gen Law §27-18.9-5 (b)(3) provides "*A utilization review agent shall not retrospectively deny authorization for healthcare services provided to a covered person when an authorization has been obtained for that service from the review agent unless the approval was based upon inaccurate information material to the review or the healthcare services were not provided consistent with the provider's submitted plan of care and/or any restrictions included in the prior approval granted by the review agent.*" See also OHIC regulation 230-RICR-20-30-14.6.B.3.

Regarding the bill's new proposed § 27-18.9-16(c), because this provision addresses itself to Medicaid and Medicaid managed care organizations, OHIC respectfully recommends any such provisions should be placed under the applicable Medicaid statute and thereby under the jurisdiction of EOHHS. Also, while there are rules and regulations governing the conduct of utilization reviews in the context of fully insured commercial health insurance plans, neither OHIC nor DBR's division of insurance select medical necessity criteria for making determinations of medical necessity and clinical appropriateness. OHIC would defer to EOHHS regarding any potential conflicts with state or federal laws.

Thank you for your continued leadership and hard work on all matters related to the health of Rhode Islanders.

Sincerely,

Cory B. King
Health Insurance Commissioner

CC: Honorable Members of the House Committee on Health and Human Services
Honorable John G. Edwards
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House