



Rhode Island Executive Office of Health and Human Services
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April 1, 2025

The Honorable Susan R. Donovan, Chairwoman
House Committee on Health & Human Services
Room 135, State House
Providence, Rhode Island 02903

RE: H 5120 – Relating to Insurance – Benefit Determination and Utilization Review Act

Dear Chairwoman Donovan:

The Rhode Island Executive Office of Health and Human Services (EOHHS)/Medicaid would like to share information relating to H 5120, An Act Relating to Insurance – Benefit Determination and Utilization Review Act.

EOHHS/Medicaid understands that the purpose of the bill is to mitigate administrative burdens that fall on primary care providers due to payer requirements for prior authorization, as well as potential negative impacts on access to care due to prior authorization requirements. EOHHS agrees that these are important policy goals and supports such actions to reduce provider abrasion and increase access to care by reducing barriers.

If enacted, H 5120 would prevent Medicaid MCOs from imposing prior authorization requirements on most services ordered by primary care providers, with exceptions (for which prior authorization is permitted) for prescription drugs.

The current contract between EOHHS and MCOs does not include these restrictions on prior authorization. Furthermore, these proposed prior authorization limitations were not included in the original procurement; thus, MCOs responded to the state's solicitation under the assumption that they could apply utilization control measures, including prior authorization on the basis of federal law regulations that allow them to implement appropriate utilization management controls.

The retroactive imposition of these prior authorization restrictions may conflict with federal Medicaid managed care regulations under 42 CFR § 438.210 ("Coverage and authorization of services"), which govern how MCOs may authorize and limit services. Specifically, under 42 CFR § 438.210(a)(4) and § 438.210(b)(3), MCOs are allowed to place appropriate limits based on medical necessity and require appropriate oversight and monitoring related to chronic and long-term services and supports.

Federal regulations explicitly permit MCOs to utilize prior authorization as a tool for utilization management, provided that access to medically necessary care is not impeded. Any state policy or statute that categorically eliminates MCOs' ability to use prior authorization may conflict with this federal framework, raising concerns about federal regulatory compliance and operational viability for Medicaid MCOs.

EOHHS/Medicaid notes that one alternative approach to address the problem of administrative burdens on primary care that we are happy to engage your leadership regarding to develop innovative solutions that would not conflict with federal law.

We welcome any discussion about H 5120, and staff are available to assist with any questions or concerns.

Sincerely,

Kristin Pao Sousa

Kristin Pono Sousa
Medicaid Program Director
Executive Office of Health and Human Services

CC: Honorable Members of the House Committee Health & Human Services
Honorable Brandon C. Potter
Nicole McCarty, Esq., Chief Legal Counsel
Lynne Urbani, Director of House Policy