
A BILL FOR AN ACT

RELATING TO DELAY IN PRIOR APPROVAL FOR MEDICAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Prior approval for medical services, also known
2 as precertification or preauthorization, refers to health
3 insurer requirements that certain physician-ordered treatments
4 or services must be approved in advance by the insurer or by a
5 medical review service contracted by the insurer before the
6 insurer will provide final reimbursement or payment. Health
7 insurers claim that preauthorization requirements encourage the
8 safety of plan participants, promote appropriate utilization of
9 services, and ensure ongoing efficiency in the setting of health
10 care costs. However, as currently applied by some health
11 insurers in the State, preauthorization requirements also create
12 gaps in necessary and often critical health care coverage,
13 especially in the areas of advanced imaging studies such as
14 magnetic resonance imagery and computed tomography testing.

15 The legislature finds that it is in the best interest of
16 the State to ensure that preauthorization requirements do not
17 negatively impact the health of Hawaii residents.



1 The purpose of this Act is to:

2 (1) Prohibit insurers from requiring preauthorization that
3 causes undue delay in a patient's receipt of medical
4 treatment or services; and

5 (2) Clarify insurer and licensed health care provider
6 liability for patient injuries caused by
7 preauthorization delays.

8 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
9 amended by adding a new section to article 10A to be
10 appropriately designated and to read as follows:

11 "§431:10A- Preauthorization; undue delay; liability.

12 (a) Notwithstanding any provision of the law to the contrary,
13 no insurer shall require preauthorization of medical services or
14 treatments so as to cause an undue delay in a patient's receipt
15 of medical treatment or services.

16 (b) For the purposes of this section, "undue delay" means
17 an unreasonable delay in medical treatment or services that may
18 cause the exacerbation or worsening of a health condition due
19 to:



- 1 (1) Insufficient time to obtain a first-time
2 preauthorization from an insurer or unwarranted
3 rejection by an insurer of a first-time
4 preauthorization;
- 5 (2) Administrative difficulties or delays in receiving
6 preauthorization from insurers; and
- 7 (3) Difficulties arising from noncommunication by insurers
8 on the tests and procedures that require
9 preauthorization;
- 10 provided that response times for preauthorization requests that
11 exceed the response times permitted for preauthorization
12 requests by medicaid, medicare, or other federal plans or
13 programs for the same medical treatment or service shall be
14 deemed an "undue delay".
- 15 (c) Notwithstanding any provision of the law to the
16 contrary, a licensed health care provider shall be defended and
17 indemnified by an insurer for civil liability for injury to a
18 patient that was caused by the insurer's undue delay in
19 preauthorizing medical treatment or services.



1 (d) An insurer that violates subsection (a) shall be
2 civilly liable for any injury that occurs to a patient because
3 of undue delay in the receipt of medical treatment or services.

4 (e) A licensed health care provider shall provide
5 treatment or services without waiting for preauthorization
6 whenever an undue delay in a patient's receipt of medical
7 treatment or services may cause the exacerbation or worsening of
8 a health condition. An insurer that disputes that it was
9 reasonable to proceed without preauthorization has the burden of
10 proving that a licensed health care provider did not have a
11 reasonable belief that it was necessary to provide treatment or
12 services without waiting for preauthorization."

13 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§432- Preauthorization; undue delay; liability. (a)
17 Notwithstanding any provision of the law to the contrary, no
18 insurer shall require preauthorization of medical services or
19 treatments so as to cause an undue delay in a patient's receipt
20 of medical treatment or services.



1 (b) For the purposes of this section, "undue delay" means
2 an unreasonable delay in medical treatment or services that may
3 cause the exacerbation or worsening of a health condition due
4 to:

5 (1) Insufficient time to obtain a first-time
6 preauthorization from an insurer or unwarranted
7 rejection by an insurer of a first-time
8 preauthorization;

9 (2) Administrative difficulties or delays in receiving
10 preauthorization from insurers; and

11 (3) Difficulties arising from noncommunication by insurers
12 on the tests and procedures that require
13 preauthorization;

14 provided that response times for preauthorization requests that
15 exceed the response times permitted for preauthorization
16 requests by medicaid, medicare, or other federal plans or
17 programs for the same medical treatment or service shall be
18 deemed an "undue delay".

19 (c) Notwithstanding any provision of the law to the
20 contrary, a licensed health care provider shall be defended and



1 indemnified by an insurer for civil liability for injury to a
2 patient that was caused by the insurer's undue delay in
3 preauthorizing medical treatment or services.

4 (d) An insurer that violates subsection (a) shall be
5 civilly liable for any injury that occurs to a patient because
6 of undue delay in the receipt of medical treatment or services.

7 (e) A licensed health care provider shall provide
8 treatment or services without waiting for preauthorization
9 whenever an undue delay in a patient's receipt of medical
10 treatment or services may cause the exacerbation or worsening of
11 a health condition. An insurer that disputes that it was
12 reasonable to proceed without preauthorization has the burden of
13 proving that a licensed health care provider did not have a
14 reasonable belief that it was necessary to provide treatment or
15 services without waiting for preauthorization."

16 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§432D-23 Required provisions and benefits.**

19 Notwithstanding any provision of law to the contrary, each
20 policy, contract, plan, or agreement issued in the State after



1 January 1, 1995, by health maintenance organizations pursuant to
 2 this chapter, shall include benefits provided in sections
 3 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
 4 116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119, 431:10A-120,
 5 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126, 431:10A-132,
 6 431:10A-133, 431:10A-134, 431:10A-140, [~~and 431:10A-134,~~]
 7 431:10A- , and chapter 431M."

8 SECTION 5. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun before its effective date.

13 SECTION 7. This Act shall take effect upon its approval.
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INTRODUCED BY:

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H.B. NO. 885

Report Title:

Liability; Preauthorization; Health Insurance

Description:

Prohibits health insurance preauthorization requirements that cause undue delay in receipt of medical treatment or services. Specifies that insurers, but not health care providers, are liable for civil damages caused by undue delays for preauthorization.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

