WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Originating

House Bill 2351

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[Originating in the Committee on Health and Human
Resources; Reported on January 10, 2019]
A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating to regulating prior authorizations; defining terms; providing for electronically transmitted prior authorization forms; establishing procedures for submission and acceptance of forms; setting forth an effective date; providing for implementation applicability; and setting deadlines.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. GENERAL PROVISIONS.

§33-4-22. Prior authorization.

(a) The Public Employees Insurance Agency, managed care organizations, and private commercial insurers are required to develop prior authorization forms. These forms are required to be placed in an easily identifiable and accessible place on their web page. The forms shall include instructions for the submission of clinical documentation and provide an electronic notification confirming receipt of the prior authorization request. The forms shall be prepared by October 1, 2019.

(b) The Public Employees Insurance Agency, managed care organizations, and private commercial insurers shall accept electronic prior authorization requests and respond to the request through electronic means by July 1, 2020. If the Public Employees Insurance Agency, managed care organizations, or private commercial insurers are currently accepting electronic prior authorization requests, it shall have until January 1, 2020 to implement the provisions of this section.

(c) If the health care practitioner submits the request for prior authorization electronically, the insurer or plan shall respond to the prior authorization request within seven days from the time on the electronic receipt of the prior authorization request, except that the insurer or plan shall respond to the prior authorization request within two days if the request is for a medical care or other service for a condition where application of the time frame for making routine or nonlife-threatening care determinations is either of the following:
(1) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient’s psychological state; or

(2) In the opinion of a practitioner with knowledge of the patient’s medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(d) If information submitted is considered incomplete, the health care practitioner shall provide the additional information requested within seventy-two hours from the time the request is received by the practitioner or the prior authorization is deemed denied and a new request must be submitted.

(e) The Public Employees Insurance Agency, managed care organizations, and private commercial insurers shall make available on their websites information about the policies, contracts, or agreements offered that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(f) A prior authorization approved by a managed care organization is carried over to all other managed care organizations for three months, if the services are provided within the state.

(g) The Public Employees Insurance Agency, managed care organizations, and private commercial insurers shall use national best practice guidelines to evaluate a prior authorization.

(h) This section is effective for policy, contract, plan or agreement beginning on or after January 1, 2020. This section applies to all policies, contracts, plans or agreements subject to this article that are delivered, executed, issued, amended, adjusted or renewed in this state, on and after the effective date of this section.

(i) This section is not applicable to submission of a prior authorization request through telephone, mail, or fax

(j) The Department of Health and Human Services shall have sole authority to enforce the provisions of this section as it relates to medical services paid for by managed care organizations pursuant to a contract with the Department to provide medical services: Provided, That the
requirements in this subsection shall be expressly memorialized in such contract.

NOTE: The purpose of this bill is to establish universal forms and establish deadlines when a prior authorization is submitted electronically.

This bill was recommended for passage by the Joint Committee on Health during the 2019 legislative session.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.