

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

### **Originating**

## **House Bill 2351**

BY ELLINGTON, HILL, ROHRBACH, ROWAN, SUMMERS,  
THOMPSON, C., WALKER, STAGGERS, ATKINSON, AND  
ANGELUCCI

[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.**

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

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

13           (c) If the health care practitioner submits the request for prior authorization electronically,  
14 the insurer or plan shall respond to the prior authorization request within seven days from the time  
15 on the electronic receipt of the prior authorization request, except that the insurer or plan shall  
16 respond to the prior authorization request within two days if the request is for a medical care or  
17 other service for a condition where application of the time frame for making routine or nonlife-  
18 threatening care determinations is either of the following:

19 (1) Could seriously jeopardize the life, health, or safety of the patient or others due to the  
20 patient's psychological state; or

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

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

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

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

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

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

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

42 (j) The Department of Health and Human Services shall have sole authority to enforce the  
43 provisions of this section as it relates to medical services paid for by managed care organizations  
44 pursuant to a contract with the Department to provide medical services: Provided, That the

45 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.