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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 3867

03/02/2026 Authored by Mahamoud, Bahner, Bierman, Reyer, Elkins and others
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to health; modifying standards for utilization review performance; creating
1.3 a cause of action for wrongful denials of prior authorizations by utilization review
1.4 organizations; providing for attorney general enforcement; authorizing fines by
1.5 the commissioner of commerce; requiring oversight of utilization review by
1.6 health-related licensing boards; amending Minnesota Statutes 2024, sections
1.7 62M.04, subdivision 4; 62M.05, subdivision 3a; 62M.06, by adding a subdivision;
1.8 62M.07, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.9 chapters 62M; 214.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2024, section 62M.04, subdivision 4, is amended to read:

1.12 Subd. 4. Additional information. (a) A utilization review organization may request
1.13 information in addition to that described in subdivision 3 when there is significant lack of
1.14 agreement between the utilization review organization and the provider regarding the
1.15 appropriateness of authorization during the review or appeal process. For purposes of this
1.16 subdivision, "significant lack of agreement" means that the utilization review organization
1.17 has:

1.18 (1) tentatively determined through its professional staff that a service cannot be
1.19 authorized;

1.20 (2) referred the case to a physician for review; and

1.21 (3) talked to or attempted to talk to the attending health care professional for further
1.22 information.

2.1 (b) Prior to issuing an adverse determination, the reviewing physician for the utilization  
 2.2 review organization under paragraph (a) must contact the attending health care professional  
 2.3 to obtain more details on the medical necessity of the service.

2.4 (c) Nothing in this chapter prohibits a utilization review organization from requiring  
 2.5 submission of data necessary to comply with the quality assurance and utilization review  
 2.6 requirements of chapter 62D or other appropriate data or outcome analyses.

2.7 Sec. 2. Minnesota Statutes 2024, section 62M.05, subdivision 3a, is amended to read:

2.8 Subd. 3a. **Standard review determination.** (a) A standard review determination on all  
 2.9 requests for utilization review must be communicated to the provider and enrollee in  
 2.10 accordance with this subdivision within five business days after receiving the request,  
 2.11 regardless of how the request was received, provided that all information reasonably  
 2.12 necessary to make a determination on the request has been made available to the utilization  
 2.13 review organization.

2.14 (b) When a determination is made to authorize, notification must be provided promptly  
 2.15 by telephone to the provider. The utilization review organization shall send written  
 2.16 notification to the provider or shall maintain an audit trail of the determination and telephone  
 2.17 notification. For purposes of this subdivision, "audit trail" includes documentation of the  
 2.18 telephone notification, including the date; the name of the person spoken to; the enrollee;  
 2.19 the service, procedure, or admission authorized; and the date of the service, procedure, or  
 2.20 admission. If the utilization review organization indicates authorization by use of a number,  
 2.21 the number must be called the "authorization number." For purposes of this subdivision,  
 2.22 notification may also be made by facsimile to a verified number or by electronic mail to a  
 2.23 secure electronic mailbox. These electronic forms of notification satisfy the "audit trail"  
 2.24 requirement of this paragraph.

2.25 (c) When an adverse determination is made, written notification must be provided within  
 2.26 the time periods specified in paragraph (a) ~~by telephone~~, by facsimile to a verified number,  
 2.27 or by electronic mail to a secure electronic mailbox to the attending health care professional  
 2.28 and hospital or physician office as applicable. ~~Written notification must also be sent to the~~  
 2.29 ~~hospital or physician office as applicable and attending health care professional if notification~~  
 2.30 ~~occurred by telephone. For purposes of this subdivision, notification may be made by~~  
 2.31 ~~facsimile to a verified number or by electronic mail to a secure electronic mailbox.~~  
 2.32 Notification must also be made by telephone to the attending health care professional through  
 2.33 a call made by the physician or appropriate specialist that made the adverse determination  
 2.34 under section 62M.09. Written notification must be sent to the enrollee and may be sent by

3.1 United States mail, facsimile to a verified number, or by electronic mail to a secure mailbox.  
 3.2 The written notification must include all reasons relied on by the utilization review  
 3.3 organization for the determination and the process for initiating an appeal of the  
 3.4 determination. Upon request, the utilization review organization shall provide the provider  
 3.5 or enrollee with the criteria used to determine the necessity, appropriateness, and efficacy  
 3.6 of the health care service and identify the database, professional treatment parameter, or  
 3.7 other basis for the criteria. Reasons for an adverse determination may include, among other  
 3.8 things, the lack of adequate information to authorize after a reasonable attempt has been  
 3.9 made to contact the provider or enrollee.

3.10 (d) When an adverse determination is made, the written notification must inform the  
 3.11 enrollee and the attending health care professional of the right to submit an appeal to the  
 3.12 internal appeal process described in section 62M.06 and the procedure for initiating the  
 3.13 internal appeal. The written notice shall be provided in a culturally and linguistically  
 3.14 appropriate manner consistent with the provisions of the Affordable Care Act as defined  
 3.15 under section 62A.011, subdivision 1a.

3.16 Sec. 3. Minnesota Statutes 2024, section 62M.06, is amended by adding a subdivision to  
 3.17 read:

3.18 Subd. 5. Fines. (a) The commissioner of commerce must impose a fine on a utilization  
 3.19 review organization if the rate at which adverse determinations are reversed exceeds 40  
 3.20 percent in any period of 12 consecutive months for any of the following:

3.21 (1) expedited appeals under subdivision 2;

3.22 (2) standard appeals under subdivision 3; or

3.23 (3) external reviews under section 62Q.73.

3.24 (b) The fine under paragraph (a) must not exceed \$.....

3.25 Sec. 4. Minnesota Statutes 2024, section 62M.07, subdivision 3, is amended to read:

3.26 Subd. 3. **Retrospective revocation or limitation of prior authorization.** No utilization  
 3.27 review organization, health plan company, or claims administrator may revoke, limit,  
 3.28 condition, or restrict a prior authorization that has been authorized unless there is evidence  
 3.29 that the prior authorization was authorized based on fraud or misinformation or a previously  
 3.30 approved prior authorization conflicts with state or federal law. Application of a deductible,  
 3.31 coinsurance, or other cost-sharing requirement ~~does not constitute~~ constitutes a limit,  
 3.32 condition, or restriction under this subdivision.

4.1 Sec. 5. [62M.112] CAUSE OF ACTION.

4.2 Subdivision 1. Cause of action; documentation. (a) An enrollee injured by a denial of  
4.3 a prior authorization by a utilization review organization for a health care service has a  
4.4 cause of action against a utilization review organization if the following occurs:

4.5 (1) the utilization review organization makes an adverse determination of both a request  
4.6 for prior authorization and a subsequent appeal by the enrollee's attending health care  
4.7 professional;

4.8 (2) the adverse determination deviates from accepted norms of practice in the medical  
4.9 community;

4.10 (3) the adverse determination deviates from the recommendation of the enrollee's  
4.11 attending health care professional; and

4.12 (4) the adverse determination causes injury to the enrollee.

4.13 (b) A utilization review organization may only be found liable under this section if  
4.14 documentation is provided that shows the utilization review organization disregarded the  
4.15 judgment of the enrollee's attending health care professional and relevant information  
4.16 supporting the initial request for prior authorization or appeal of the adverse determination,  
4.17 or both.

4.18 (c) A court may award to a prevailing plaintiff from a person found liable under this  
4.19 section the following:

4.20 (1) general and special damages, including damages for mental anguish;

4.21 (2) punitive damages;

4.22 (3) injunctive relief and any other equitable relief the court deems appropriate; and

4.23 (4) costs, disbursements, and reasonable attorney fees.

4.24 Subd. 2. Administrative complaint. An enrollee may file a complaint to the  
4.25 commissioner responsible for regulating the utilization review organization under section  
4.26 62M.11 prior to bringing an action, concurrently with a pending action, or after bringing  
4.27 an action under this section.

4.28 Subd. 3. Immunity. This section does not create a cause of action against an attending  
4.29 health care professional of an enrollee whose prior authorization was denied. An attending  
4.30 health care professional is immune from civil liability created under this subdivision.

5.1 **EFFECTIVE DATE.** This section is effective August 1, 2026, and applies to causes  
5.2 of action accruing on or after that date.

5.3 Sec. 6. **[62M.20] ATTORNEY GENERAL ENFORCEMENT.**

5.4 The attorney general has the authority under section 8.31 to enforce this chapter.

5.5 Sec. 7. **[214.125] UTILIZATION REVIEW OVERSIGHT.**

5.6 Health-related licensing boards must apply and enforce the standards of professional  
5.7 conduct to the performance of utilization review, as defined in section 62M.02, by the  
5.8 boards' licensees.