



2023 SESSION POSITION PAPER

BILL NO: SB 308
COMMITTEE: Senate Finance Committee
POSITION: SUPPORT WITH AMENDMENTS

TITLE: Health Insurance – Utilization Review – Revisions

BILL ANALYSIS

SB 308 - Health Insurance – Utilization Review – Revisions alters and establishes requirements related to health insurance utilization review, benchmarks for standardizing and automating the preauthorization process, an online preauthorization system for payors, preauthorization for prescription drugs, and private review agents. The bill requires the Maryland Health Care Commission (the "Commission") in consultation with providers, payors, and the State Designated Health Information Exchange (HIE) to develop recommendations to achieve greater standardization and uniformity across payors to ease the burden of preauthorization and other utilization management techniques for patients, providers, and payors. This includes, replacing use of proprietary web-based portals with the adoption of uniform implementation specifications and standardization with a single sign-on option for payor and third-party administrator websites, and a pilot program through the State Designated HIE. The bill also requires the Commission and the Maryland Insurance Administration, in consultation with providers and payors, to study the development of standards for the implementation of payor programs to modify preauthorization requirements for prescription drugs, medical care, and other services based on provider-specific criteria.

POSITION AND RATIONALE

The Commission supports SB 308 with amendments that extend the time to complete various areas of study in Sections 2 and 3 and delay implementation of Section 1 requirements until the studies have been completed. The additional time is needed to complete the work adequately and assess the potential impact of pending federal legislation related to preauthorization. On December 13, 2022,^{1, 2} the Centers for Medicare & Medicaid Services (CMS) released a Proposed Rule that aims to streamline processes related to preauthorization, among other things. The Proposed Rule would require implementation by 2026 and includes requirements intended to reduce overall provider and payor hardship and improve patient access to health information.

¹ The CMS Proposed Rule is available at: www.federalregister.gov/documents/2022/12/13/2022-26479/medicare-and-medicaid-programs-patient-protection-and-affordable-care-act-advancing-interoperability.

² The CMS Proposed Rule comment period is 90-days, or through March 13, 2023.

Electronic preauthorization emerged to streamline communications between providers and payors regarding patient coverage, eligibility, and medical necessity of a medical service or pharmaceutical.³ In 2012, Maryland became one of the first states to enact legislation that required payors to implement preauthorization requirements in a phased approach, which included establishing web-based portals.^{4, 5} Chapters 534 and 535 (SB 540, HB 470) of the 2012 Laws of Maryland required the Commission to work with payors and providers to attain benchmarks for standardizing and automating the preauthorization process and establish regulations through which a payor or provider may be waived from attaining one or more benchmarks.⁶ SB 308 requires payors to adopt new processes and technology, with the intent to ease the administrative workload of preauthorizations that continue to burden providers and their supporting staff.

The Commission supports the aims of SB 308 in reshaping medical oversight and review by payors and notes that more time is needed by payors to consider the impact of the bill on existing preauthorization processes and technology systems. The Commission recommends the Committee require the Commission, in collaboration with payors, to identify barriers to implementing the legislation and propose solutions as part of the study requirements in the bill.

For the reasons noted, the Commission suggests delaying implementation of the legislation until completion of all areas of required study. Should the Committee decide to advance SB 308, the Commission recommends that the bill be amended as follows.

AMENDMENTS:

AMENDMENT NUMBER ONE:

- Page 24, line 23 strike December 1, 2023, and replace with, NOVEMBER 1, 2024

AMENDMENT NUMBER TWO:

- Page 25, line 7 strike December 1, 2023, and replace with, NOVEMBER 1, 2024

³ *Altarum Institute*, “Impacts of Prior Authorization on Health Care Costs and Quality,” November 2019. Available at: www.nihcr.org/wp-content/uploads/Altarum-Prior-Authorization-Review-November-2019.pdf.

⁴ Md. Code Ann., Health-Gen. § 19-108.2.

⁵ An web-based portal is a standalone system; also referred to as an “online preauthorization system.”

⁶ Enactment of the law was informed by a Maryland Health Care Commission report based on recommendations from a multistakeholder workgroup, *Recommendations for Implementing Electronic Prior Authorizations, December 2011*.



AMENDMENT NUMBER THREE:

- Page 25, line 20 strike after the word “effect” January 1, 2024, and replace with,
JULY 1, 2025, AFTER THE STUDIES CONDUCTED BY THE MARYLAND
HEALTH CARE COMMISSION HAVE BEEN COMPLETED AND CONSIDERED
BY THE GENERAL ASSEMBLY

Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.

