KENNETH P. KERR, ED.D
Legislative District 3
Frederick County

Health and Government Operations Committee

Subcommittees

Chair, Government Operations and Health Facilities

Insurance and Pharmaceuticals

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Annapolis Office
The Maryland House of Delegates
6 Bladen Street, Room 209
Annapolis, Maryland 21401
410-841-3240 · 301-858-3240
800-492-7122 *Ext.* 3240
Ken.Kerr@house.state.md.us

District Office
4539 Metropolitan Court, Suite 257
Frederick, Maryland 21704
301-360-3505

February 13, 2023

Delegate Ken Kerr, House Bill 305: Health Insurance – Utilization Review – Revisions.

Before I begin, I want to make two points clear:

- First, this bill does not do away with prior authorization or other utilization review management techniques. Rather, it tries to make the process more balanced for both patients and physicians by reducing the volume that is subject to prior authorization, by increasing transparency and communication and by studying how the process can be improved overall.

- Second, over 50 organizations, representing health care providers and patient advocacy organizations support this legislation.

- Today you will hear common stories from physicians and others in the field of oncology, gastrology, rheumatology, primary care, pediatrics, psychiatry and more, which indicate that this is a systemic issue across the entire spectrum of health care.

- As we heard earlier this Session from the Maryland Insurance Administration, in 2021 health insurance carriers rendered 81,143 adverse decisions or denials. This is an increase from 78,314 in 2018.

- The three areas receiving the greatest number of denials were pharmacy, dental and the combined category of labs and radiology services.

- In addition to the increase in denials, the MIA also reported that, when consumers file a complaint with the MIA, the patient ultimately benefits from the outcome.

- In 2018, the carrier's denial was modified or reversed 67% of the time during the MIA investigation; by 2022, this percentage increased to 72.4% of the time. All the reversals resulted in more benefits for Maryland consumers, benefits that they should have arguably been given at the first request.

- To me, these numbers indicate a problem. Reversals or modifications by the MIA should be the minority of cases, not the majority.

- Not only are patients affected, but physicians and health care providers are also negatively impacted, resulting in increased costs and burnout.

- The American Medical Association conducted a study in 2021 and found that 40% of physicians have staff who work exclusively on prior authorization requests. The survey also found that on average almost two business days a week are spent completing prior authorizations. This is both time and money that should be spent on patient care.

Therefore, House Bill 305 will reduce the volume of medications subject to prior authorization.

- First, it will allow a patient to stay on a prescription drug without another prior authorization if the insurer previously approved the drug and the patient continues to be successfully treated by the drug.

- Too often, as you will hear in today's stories, patients suffered or were at greater risk of medical complications because the carrier denied their current drug on a reauthorization.

- Second, House Bill 305 will exempt prescription drugs from requiring a prior authorization for dosage changes provided that the change is consistent with federal FDA labeled dosages.

- Third, it will eliminate prior authorization for generic drugs or instances when there is a need for multiple prescriptions due to formulation differences.

House Bill 305 will also increase transparency and communication, which will hopefully save time for providers, patients and the insurance carriers. A few key provisions are that:

1. House Bill 305 will require that the physician making or involved in making the denial is knowledgeable of and experienced in the diagnosis and the treatment under review.

2. House Bill 305 will also require the carriers to reach out to the treating provider prior to issuing a denial and not just be available for a discussion on the medical necessity of the requested treatment after the fact. Delays can negatively impact treatment plans and schedules.

3. House Bill 305 will also require that the physician (or dentist) making the denial has a current and valid Maryland license. Maryland doesn't allow an individual to treat a patient within the State without a license, why should we allow an individual without a Maryland license to deny treatment to a Maryland patient.

Lastly, House Bill 305 contains two studies that aim to make the process more efficient.

1. The first study is the feasibility of implementing a "gold card" standard in Maryland, which would exempt health care practitioners who meet certain criteria from prior authorization standards.

2. The second study is how to create better standardization and uniformity across the electronic prior authorization systems to make them more user friendly. This study authorizes CRISP to conduct a pilot program to create a single-entry portal rather than each carrier having its own portal or system.

To end, I realize that the insurers oppose this legislation, and I am willing to work with them on creating meaningful reforms. However, change is needed for our patients and for our providers.