

HOUSE BILL 302

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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10 AN ACT

11 RELATING TO INSURANCE; ENACTING A NEW SECTION OF THE PRIOR
12 AUTHORIZATION ACT TO REQUIRE HEALTH INSURERS TO ESTABLISH
13 PROCEDURES TO GRANT EXEMPTIONS FROM THEIR PRIOR AUTHORIZATION
14 PROCESS FOR HEALTH CARE PROFESSIONALS THAT MEET CERTAIN
15 CRITERIA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-22B-1 NMSA 1978 (being Laws 2019, Chapter 187, Section 3) is amended to read:

"59A-22B-1. SHORT TITLE.--[Sections 3 through 7 of this act] Chapter 59A, Article 22B NMSA 1978 may be cited as the "Prior Authorization Act"."

SECTION 2. A new section of the Prior Authorization Act is enacted to read:

"[NEW MATERIAL] PROCESS FOR GRANTING EXEMPTIONS FROM PRIOR

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1 AUTHORIZATION PROCESS CREATED--APPLICATIONS--ELIGIBILITY--
2 RESCISSION--INDEPENDENT REVIEW.--

3 A. For purposes of this section:

4 (1) "abuse" means health care professional
5 practices that are inconsistent with sound fiscal, business or
6 medical practices and result in an unnecessary cost to the
7 health insurer or in reimbursement for services that are not
8 medically necessary or that fail to meet professionally
9 recognized standards for health care;

10 (2) "evaluation period" means a six-month
11 period beginning each January and each June;

12 (3) "fraud" means an intentional deception or
13 misrepresentation made by a person with the knowledge that the
14 deception could result in some unauthorized benefit to the
15 person or another person and includes any act that constitutes
16 fraud under applicable federal or state law; and

17 (4) "outpatient health care services" does not
18 include pharmaceutical services or the provision of
19 prescription drug products or supplies.

20 B. No sooner than thirty days after the end of each
21 evaluation period, a participating health care professional may
22 apply to a health insurer for an exemption from its prior
23 authorization process, including a recommended clinical review,
24 for outpatient health care services. A health insurer shall
25 grant the exemption request if, in the evaluation period prior

1 to the exemption request, no less than ninety percent of the
2 health care professional's ten or more prior authorization
3 requests for that outpatient health care service have been
4 approved upon initial submission or after appeal.

5 C. A health insurer shall provide a written
6 approval or denial of the prior authorization exemption request
7 no later than ten business days after receipt of the request.

8 D. When a health care professional's prior
9 authorization exemption request is denied, a health insurer
10 shall provide an explanation for the denial, including data,
11 that sufficiently demonstrates how the request failed to meet
12 the criteria established pursuant to Subsection B of this
13 section.

14 E. When a health care professional's prior
15 authorization exemption request is approved, a health insurer
16 shall provide the health care professional with information
17 regarding the rights and obligations of the parties, including
18 the effective date of the prior authorization exemption.

19 F. Once during each evaluation period, except as
20 provided for in Subsection H of this section, a health insurer
21 may determine whether to continue or rescind a health care
22 professional's prior authorization exemption.

23 G. Except as provided for in Subsection H of this
24 section, a health insurer shall not rescind a health care
25 professional's prior authorization exemption unless the health

insurer:

(1) determines that less than ninety percent of the claims submitted by the health care professional during the previous evaluation period would have met the applicable medical necessity criteria, based on a retrospective review of a random sample of not fewer than five but no more than twenty claims; and

(2) provides the health care professional with written notice not less than twenty-five days before the rescission is to take effect, including an explanation and the sample information used to make the determination.

H. If a health insurer determines that a health care professional has fraudulently or abusively used any exemption, the health insurer may immediately and retroactively to the time of the first incident of fraud or abuse rescind all exemptions upon written notice to the health care professional, including an explanation and sample information used to make the determination.

I. A health care professional has a right to request an independent review of the determination to rescind a prior authorization exemption.

J. A health insurer shall not require a health care professional to engage in an internal appeal process before requesting an independent review of the determination to rescind a prior authorization exemption.

K. An independent review organization shall complete a review of an adverse determination no later than thirty days after the date a health care professional files a request for the review.

L. A health care professional may request that the independent review organization conduct a review of another sample of claims using the process described in Subsection G of this section.

M. The independent review shall be conducted by a person licensed to practice medicine in this state. If the rescission applies to a physician, the determination shall be made by a person licensed to practice medicine in this state who practices in the same or similar specialty as the physician requesting the review.

N. The health insurer shall pay:

(1) for an independent review of the adverse determination; and

(2) a reasonable fee, determined by the New Mexico medical board, for any copies of medical records or other documents requested from the health care professional that are necessary for conducting the independent review.

0. The parties shall be bound by an independent review organization's decision.

P. Except in the case of fraud or abuse, if an independent review organization overturns the health insurer's

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1 determination to rescind a prior authorization exemption, the
2 health insurer shall not attempt to rescind that exemption
3 until the beginning of the next evaluation period.

4 Q. If an independent review organization affirms
5 the health insurer's determination to rescind a prior
6 authorization exemption:

7 (1) except in the case of fraud or abuse, the
8 health insurer shall not retroactively deny any prior
9 authorization granted on the basis of a rescission of a prior
10 authorization exemption; and

11 (2) a health care professional shall be
12 eligible to apply for a new prior authorization exemption
13 during the evaluation period that follows the evaluation period
14 that formed the basis of the rescission.

15 R. If an independent review organization overturns
16 the health insurer's determination to rescind a prior
17 authorization exemption based on fraud or abuse, the health
18 insurer shall reinstate the prior authorization exemption in no
19 more than ten business days. If an independent review
20 organization affirms the health insurer's determination to
21 rescind a prior authorization exemption based on fraud or
22 abuse, the rescission shall remain in place as noticed by the
23 health insurer to the health care professional.

24 S. The superintendent shall promulgate rules in
25 accordance with this section no later than December 31, 2026."