

By: Bonnen of Galveston

H.B. No. 2327

Substitute the following for H.B. No. 2327:

By: Lucio III

C.S.H.B. No. 2327

A BILL TO BE ENTITLED

AN ACT

relating to preauthorization of certain medical care and health care services by certain health benefit plan issuers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 843.348(b), Insurance Code, is amended to read as follows:

(b) A health maintenance organization that uses a preauthorization process for health care services shall provide each participating physician or provider, not later than the fifth ~~10th~~ business day after the date a request is made, a list of health care services that ~~do not~~ require preauthorization and information concerning the preauthorization process.

SECTION 2. Subchapter J, Chapter 843, Insurance Code, is amended by adding Sections 843.3481, 843.3482, 843.3483, and 843.3484 to read as follows:

Sec. 843.3481. POSTING OF PREAUTHORIZATION REQUIREMENTS.

(a) A health maintenance organization that uses a preauthorization process for health care services shall make the requirements and information about the preauthorization process readily accessible to enrollees, physicians, providers, and the general public by posting the requirements and information on the health maintenance organization's Internet website.

(b) The preauthorization requirements and information described by Subsection (a) must:

1 (1) be posted:

2 (A) conspicuously in a location on the Internet
3 website that does not require the use of a log-in or other input of
4 personal information to view the information; and

5 (B) in a format that is easily searchable and
6 accessible;

7 (2) be written in plain language that is easily
8 understandable by enrollees, physicians, providers, and the
9 general public;

10 (3) include a detailed description of the
11 preauthorization process and procedure; and

12 (4) include an accurate and current list of the health
13 care services for which the health maintenance organization
14 requires preauthorization that includes the following information
15 specific to each service:

16 (A) the effective date of the preauthorization
17 requirement;

18 (B) a list or description of any supporting
19 documentation that the health maintenance organization requires
20 from the physician or provider providing the service to approve a
21 request for that service;

22 (C) the applicable screening criteria using
23 Current Procedural Terminology codes and International
24 Classification of Diseases codes; and

25 (D) statistics regarding preauthorization
26 approval and denial rates for the service in the preceding year and
27 for each previous year the preauthorization requirement was in

1 effect, including statistics in the following categories:

2 (i) physician or provider type and
3 specialty, if any;

4 (ii) indication offered;

5 (iii) reasons for request denial;

6 (iv) denials overturned on internal appeal;

7 (v) denials overturned on external appeal;

8 and

9 (vi) total annual preauthorization
10 requests, approvals, and denials for the service.

11 Sec. 843.3482. CHANGES TO PREAUTHORIZATION REQUIREMENTS.

12 (a) Except as provided by Subsection (b), not later than the 60th
13 day before the date a new or amended preauthorization requirement
14 takes effect, a health maintenance organization that uses a
15 preauthorization process for health care services shall provide
16 each participating physician or provider written notice of the new
17 or amended preauthorization requirement and disclose the new or
18 amended requirement in the health maintenance organization's
19 newsletter or network bulletin, if any.

20 (b) For a change in a preauthorization requirement or
21 process that removes a service from the list of health care services
22 requiring preauthorization or amends a preauthorization
23 requirement in a way that is less burdensome to enrollees and
24 participating physicians and providers, a health maintenance
25 organization shall provide each participating physician or
26 provider written notice of the change in the preauthorization
27 requirement and disclose the change in the health maintenance

1 organization's newsletter or network bulletin, if any, not later
2 than the fifth day before the date the change takes effect.

3 (c) Not later than the fifth day before the date a new or
4 amended preauthorization requirement takes effect, a health
5 maintenance organization shall update its Internet website to
6 disclose the change to the health maintenance organization's
7 preauthorization requirements or process and the date and time the
8 change is effective.

9 Sec. 843.3483. REMEDY FOR NONCOMPLIANCE; AUTOMATIC WAIVER.

10 In addition to any other penalty or remedy provided by law, a health
11 maintenance organization that uses a preauthorization process for
12 health care services that violates this subchapter with respect to
13 a required publication, notice, or response regarding its
14 preauthorization requirements, including by failing to comply with
15 any applicable deadline for the publication, notice, or response,
16 waives the health maintenance organization's preauthorization
17 requirements with respect to any health care service affected by
18 the violation.

19 Sec. 843.3484. EFFECT OF PREAUTHORIZATION WAIVER. A waiver
20 of preauthorization requirements under Section 843.3483 may not be
21 construed to:

22 (1) authorize a physician or provider to provide
23 health care services outside of the scope of the physician's or
24 provider's applicable license; or

25 (2) require the health maintenance organization to pay
26 for a health care service provided outside of the scope of a
27 physician's or provider's applicable license.

1 SECTION 3. Section 1301.135(a), Insurance Code, is amended
2 to read as follows:

3 (a) An insurer that uses a preauthorization process for
4 medical care or [~~and~~] health care services shall provide to each
5 preferred provider, not later than the fifth [~~10th~~] business day
6 after the date a request is made, a list of medical care and health
7 care services that require preauthorization and information
8 concerning the preauthorization process.

9 SECTION 4. Subchapter C-1, Chapter 1301, Insurance Code, is
10 amended by adding Sections 1301.1351, 1301.1352, 1301.1353, and
11 1301.1354 to read as follows:

12 Sec. 1301.1351. POSTING OF PREAUTHORIZATION REQUIREMENTS.

13 (a) An insurer that uses a preauthorization process for medical
14 care or health care services shall make the requirements and
15 information about the preauthorization process readily accessible
16 to insureds, physicians, health care providers, and the general
17 public by posting the requirements and information on the insurer's
18 Internet website.

19 (b) The preauthorization requirements and information
20 described by Subsection (a) must:

21 (1) be posted:

22 (A) conspicuously in a location on the Internet
23 website that does not require the use of a log-in or other input of
24 personal information to view the information; and

25 (B) in a format that is easily searchable and
26 accessible;

27 (2) be written in plain language that is easily

1 understandable by insureds, physicians, health care providers, and
2 the general public;

3 (3) include a detailed description of the
4 preauthorization process and procedure; and

5 (4) include an accurate and current list of medical
6 care and health care services for which the insurer requires
7 preauthorization that includes the following information specific
8 to each service:

9 (A) the effective date of the preauthorization
10 requirement;

11 (B) a list or description of any supporting
12 documentation that the insurer requires from the physician or
13 health care provider providing the service to approve a request for
14 the service;

15 (C) the applicable screening criteria using
16 Current Procedural Terminology codes and International
17 Classification of Diseases codes; and

18 (D) statistics regarding the insurer's
19 preauthorization approval and denial rates for the medical care or
20 health care service in the preceding year and for each previous year
21 the preauthorization requirement was in effect, including
22 statistics in the following categories:

23 (i) physician or health care provider
24 specialty, if any;

25 (ii) indication offered;

26 (iii) reasons for request denial;

27 (iv) denials overturned on internal appeal;

1 (v) denials overturned on external appeal;

2 and

3 (vi) total annual preauthorization

4 requests, approvals, and denials for the service.

5 (c) The provisions of this section may not be waived,

6 voided, or nullified by contract.

7 Sec. 1301.1352. CHANGES TO PREAUTHORIZATION REQUIREMENTS.

8 (a) Except as provided by Subsection (b), not later than the 60th

9 day before the date a new or amended preauthorization requirement

10 takes effect, an insurer that uses a preauthorization process for

11 medical care or health care services shall provide to each

12 preferred provider written notice of the new or amended

13 preauthorization requirement and disclose the new or amended

14 requirement in the insurer's newsletter or network bulletin, if

15 any.

16 (b) For a change in a preauthorization requirement or

17 process that removes a service from the list of medical care or

18 health care services requiring preauthorization or amends a

19 preauthorization requirement in a way that is less burdensome to

20 insureds, physicians, and health care providers, an insurer shall

21 provide each preferred provider written notice of the change in the

22 preauthorization requirement and disclose the change in the

23 insurer's newsletter or network bulletin, if any, not later than

24 the fifth day before the date the change takes effect.

25 (c) Not later than the fifth day before the date a new or

26 amended preauthorization requirement takes effect, an insurer

27 shall update its Internet website to disclose the change to the

1 insurer's preauthorization requirements or process and the date and
2 time the change is effective.

3 (d) The provisions of this section may not be waived,
4 voided, or nullified by contract.

5 Sec. 1301.1353. REMEDY FOR NONCOMPLIANCE; AUTOMATIC
6 WAIVER. (a) In addition to any other penalty or remedy provided by
7 law, an insurer that uses a preauthorization process for medical
8 care or health care services that violates this subchapter with
9 respect to a required publication, notice, or response regarding
10 its preauthorization requirements, including by failing to comply
11 with any applicable deadline for the publication, notice, or
12 response, waives the insurer's preauthorization requirements with
13 respect to any medical care or health care service affected by the
14 violation.

15 (b) The provisions of this section may not be waived,
16 voided, or nullified by contract.

17 Sec. 1301.1354. EFFECT OF PREAUTHORIZATION WAIVER. (a) A
18 waiver of preauthorization requirements under Section 1301.1353
19 may not be construed to:

20 (1) authorize a physician or health care provider to
21 provide medical care or health care services outside of the scope of
22 the physician's or health care provider's applicable license; or

23 (2) require the insurer to pay for a medical care or
24 health care service provided outside of the scope of a physician's
25 or health care provider's applicable license.

26 (b) The provisions of this section may not be waived,
27 voided, or nullified by contract.

1 SECTION 5. The change in law made by this Act applies only
2 to a request for preauthorization of medical care or health care
3 services made on or after January 1, 2020, under a health benefit
4 plan delivered, issued for delivery, or renewed on or after that
5 date. A request for preauthorization of medical care or health care
6 services made before January 1, 2020, or on or after January 1,
7 2020, under a health benefit plan delivered, issued for delivery,
8 or renewed before that date is governed by the law as it existed
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose.

11 SECTION 6. This Act takes effect September 1, 2019.