

By: Johnson of Dallas

H.B. No. 5113

A BILL TO BE ENTITLED

AN ACT

relating to utilization review requirements for a health care service provided by a network physician or provider.

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

SECTION 1. Subchapter J, Chapter 843, Insurance Code, is amended by adding Section 843.355 to read as follows:

Sec. 843.355. UTILIZATION REVIEW FOR PARTICIPATING PHYSICIAN OR PROVIDER PROHIBITED. A health maintenance organization may not require utilization review, including a preauthorization determination that a health care service is medically necessary and appropriate, of a health care service provided to an enrollee by a participating physician or provider.

SECTION 2. Subchapter C-1, Chapter 1301, Insurance Code, is amended by adding Section 1301.1345 to read as follows:

Sec. 1301.1345. UTILIZATION REVIEW FOR PREFERRED PHYSICIAN OR PROVIDER PROHIBITED. (a) In this section, "utilization review" has the meaning assigned by Section 4201.002.

(b) An insurer may not require utilization review, including preauthorization, of a medical care or health care service provided to an insured by a preferred physician or provider.

SECTION 3. The heading to Section 1301.135, Insurance Code, is amended to read as follows:

Sec. 1301.135. PREAUTHORIZATION OF MEDICAL AND HEALTH CARE

1 SERVICES FOR NONPREFERRED PHYSICIAN OR PROVIDER.

2 SECTION 4. Sections 1301.135(d) and (f), Insurance Code,
3 are amended to read as follows:

4 (d) If ~~the~~ proposed medical care or health care services
5 involve inpatient care and the insurer requires preauthorization as
6 a condition of payment of a nonpreferred provider, the insurer
7 shall review the request and issue a length of stay for the
8 admission into a health care facility based on the recommendation
9 of the patient's nonpreferred ~~[physician or health care]~~ provider
10 and the insurer's written medically accepted screening criteria and
11 review procedures. If the proposed medical or health care services
12 are to be provided to a patient who is an inpatient in a health care
13 facility at the time the services are proposed, the insurer shall
14 review the request and issue a determination indicating whether
15 proposed services are preauthorized within 24 hours of the request
16 by the nonpreferred physician or provider.

17 (f) If an insurer has preauthorized medical care or health
18 care services, the insurer may not deny or reduce payment to the
19 nonpreferred physician or health care provider for those services
20 based on medical necessity or appropriateness of care unless the
21 nonpreferred physician or provider has materially misrepresented
22 the proposed medical or health care services or has substantially
23 failed to perform the proposed medical or health care services.

24 SECTION 5. Section 1301.1351(d), Insurance Code, is amended
25 to read as follows:

26 (d) If a requirement or information described by Subsection
27 (a) is licensed, proprietary, or copyrighted material that the

1 insurer has received from a third party with which the insurer has
2 contracted, to comply with a posting requirement described by
3 Subsection (b), the insurer may, instead of making that information
4 publicly available on the insurer's Internet website, provide the
5 material to a nonpreferred [~~physician or health care~~] provider who
6 submits a preauthorization request using a nonpublic secured
7 Internet website link or other protected, nonpublic electronic
8 means.

9 SECTION 6. The following provisions of the Insurance Code
10 are repealed:

- 11 (1) Section 843.348;
- 12 (2) Section 843.3481;
- 13 (3) Section 843.3482;
- 14 (4) Section 843.3483; and
- 15 (5) Sections 1301.135(a), (b), and (c).

16 SECTION 7. The changes in law made by this Act apply only to
17 a health benefit plan delivered, issued for delivery, or renewed on
18 or after January 1, 2024. A health benefit plan delivered, issued
19 for delivery, or renewed before January 1, 2024, is governed by the
20 law as it existed immediately before the effective date of this Act,
21 and that law is continued in effect for that purpose.

22 SECTION 8. This Act takes effect September 1, 2023.