ARC 1772C

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26(2)], the Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 79, "Prior Authorization—Prescription Drug Benefits," Iowa Administrative Code.

The rules in proposed Chapter 79 describe the requirements for prior authorization for prescription drug benefits. The Commissioner of Insurance is required to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rules on or before January 6, 2015. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, Two Ruan Center, 601 Locust, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to angela.burke.boston@iid.iowa.gov.

A public hearing will be held at the office of the Insurance Division, at the address noted above, at 10 a.m. on Tuesday, January 6, 2015, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(3) will be available at https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26].

The following amendment is proposed.

Adopt the following **new** 191—Chapter 79:

CHAPTER 79
PRIOR AUTHORIZATION—PRESCRIPTION DRUG BENEFITS

191—79.1(505) Purpose. These rules implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26], which requires the commissioner to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

191—79.2(505) Definitions. For purposes of this chapter, the definitions found in 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26], shall apply. In addition, the following definitions shall apply:

"Commissioner" means the Iowa insurance commissioner.

"Division" means the Iowa insurance division.

"Exigent" means circumstances exist when, in the opinion of the physician or health care professional, as defined in Iowa Code chapter 514J, with knowledge of the patient's medical condition, a patient either is suffering from a health condition that may seriously jeopardize the patient's life, health or ability to regain maximum function or is undergoing a current course of treatment using a prescription requiring preauthorization.

"Prescription drug prior authorization" means requests for preapproval from a payor for specified medications or quantities of medications.

"Qualified health plan" or *"QHP"* means a health insurance plan under the Affordable Care Act, which is certified by the health insurance marketplace.

"Urgent" means any claim for medical care or treatment to which the application of time periods that either could seriously jeopardize the life or health of the patient or the ability of the patient to regain maximum function or, in the opinion of the physician or health care professional, as defined in Iowa Code chapter 514J, with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim.

191—79.3(505) Prior authorization protocols. All health carriers, health benefit plans and pharmacy benefits managers must accept the approved prior authorization form from health care providers.

79.3(1) *Posting of prior authorization drugs.* The health carrier, health benefit plan or pharmacy benefits manager shall post a current list of prescription drugs requiring prior authorization to the Web site of the health carrier, health benefit plan or pharmacy benefits manager.

79.3(2) *Posting of prior authorization form.* The approved prior authorization form shall be made electronically available on the Web site of the division and on the Web site of each health carrier, health benefit plan or pharmacy benefits manager that uses the form.

79.3(3) *Assignment of identification number.* The health carrier, health benefit plan or pharmacy benefits manager shall assign to each prior authorization request a unique electronic identification number that a provider may use during the prior authorization process to track the request electronically, through a call center, or by fax.

79.3(4) *Urgent claims.* Prior authorization requests for urgent claims shall be approved or denied as soon as possible, but in no case later than 72 hours after receipt of the request.

79.3(5) *Nonurgent claims.* Prior authorization requests for nonurgent claims shall be approved or denied as soon as possible, but in no case later than 15 calendar days after receipt of the request.

79.3(6) *Prescription drug benefits provided by a qualified health plan.* A QHP shall have procedures in place that comply with the health insurance issuer standards related to expedited review based on exigent circumstances and coverage determinations no later than 24 hours after receipt of requests as provided for in 45 CFR 156.122(c).

79.3(7) *Prior authorization granted.* If a health carrier, health benefit plan or pharmacy benefits manager does not approve or deny a completed prior authorization request or solicit missing information within the time limits set forth in this rule, the prior authorization request shall be deemed to have been granted.

79.3(8) *Denial of prior authorization request.* In the case of a denial of a prior authorization request, the health carrier, health benefit plan or pharmacy benefits manager shall provide the reason for the denial, an alternative covered medication, if applicable, and information regarding the denial.

191—79.4(505) Filing with the division.

79.4(1) The prior authorization form utilized by health carriers and pharmacy benefits managers shall first be examined and approved by the commissioner. Health carriers shall submit the form electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Pharmacy benefits managers shall submit the form in writing to the commissioner by regular mail, fax or electronic means.

79.4(2) The form submitted for approval shall consider any prior authorization forms developed by the federal Centers for Medicare and Medicaid Services or the Department of Health and Human Services

and any national standards pertaining to electronic prior authorization for prescription drugs, including ASC X12 278 standard transactions and NCPDP SCRIPT Standard ePA transactions.

79.4(3) A health carrier, health benefit plan or pharmacy benefits manager found after hearing to have violated a provision of this chapter shall be subject to the penalties set forth in Iowa Code chapter 505.

191—79.5(505) Applicability. This chapter shall not apply to Medicare or Medicaid.

191—79.6(505) Effective date. These rules shall take effect on March 11, 2015.

These rules are intended to implement 2014 Iowa Acts, House File 2463, section 98 [Iowa Code section 505.26].