

Senate Study Bill 1100 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON BROWN)

A BILL FOR

1 An Act relating to prior authorization exemptions for certain
2 health care providers for specific health care services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 514F.9 Prior authorization
2 exemption — health care providers.

3 1. *Definitions.* For purposes of this section:

4 a. "*Covered person*" means the same as defined in section
5 514F.8.

6 b. "*Evaluation*" means either of the following:

7 (1) A review of the outcomes of preauthorization
8 requests submitted by a health care provider during the
9 most recent evaluation period to determine the percentage of
10 the preauthorization requests that were approved, and that
11 is conducted to determine whether to grant the health care
12 provider an exemption for a specific health care service for
13 which the provider does not have an exemption.

14 (2) A retrospective review of a random sample of claims
15 submitted by a health care provider during the most recent
16 evaluation period to determine the percentage of claims that
17 would have been approved, based on meeting the health carrier's
18 applicable medical necessity criteria at the time the health
19 care service was provided, and that is conducted to determine
20 whether to rescind the health care provider's exemption,
21 consistent with subsection 5, for a specific health care
22 service.

23 c. "*Evaluation period*" means the six-month period
24 immediately preceding an evaluation, including all of the
25 following:

26 (1) For an initial exemption determination, the evaluation
27 period shall be the six-month period beginning on January 1,
28 2024, then each subsequent six-month period beginning on July 1
29 and ending December 31, and beginning on January 1 and ending
30 June 30.

31 (2) After an exemption denial or an exemption rescission
32 for a specific health care service, the subsequent six-month
33 evaluation period shall begin on the first day immediately
34 after the last day of the evaluation period that formed the
35 basis for the exemption denial or exemption rescission.

1 (3) For a retrospective review conducted pursuant to
2 subsection 5, paragraph "a", subparagraph (2), the evaluation
3 period shall be any six-month period selected by the health
4 carrier.

5 *d. "Exemption"* means an exception to a health carrier's
6 requirement that a health care provider obtain prior
7 authorization for a specific health care service.

8 *e. "Facility"* means the same as defined in section 514J.102.

9 *f. "Health benefit plan"* means the same as defined in
10 section 514J.102.

11 *g. "Health care professional"* means the same as defined in
12 514J.102.

13 *h. "Health care provider"* means the same as defined in
14 section 514J.102.

15 *i. "Health care services"* means the same as defined in
16 section 514J.102.

17 *j. "Health carrier"* means the same as defined in section
18 514F.108.

19 *k. "Independent review organization"* means an entity
20 that conducts an independent external review of an adverse
21 determination.

22 *l. "Prior authorization"* means the same as defined in
23 section 514F.8.

24 *m. "Random sample"* means between five and twenty claims
25 for a specific health care service submitted by a health care
26 provider during the most recent evaluation period.

27 *2. Exemption.*

28 *a.* A health carrier that requires prior authorization for
29 certain health care services shall grant a health care provider
30 an exemption for a specific health care service, if, in the
31 most recent evaluation period, the health carrier has approved
32 not less than eighty percent of the health care provider's
33 prior authorization requests for the specific health care
34 service.

35 *b.* A health carrier shall conduct an evaluation of each

1 health care provider that is contracted with the health carrier
2 to provide health care services to the health carrier's covered
3 persons a minimum of once every six months to determine if the
4 health care provider qualifies for an exemption under paragraph
5 "a". A health carrier may continue a health care provider's
6 exemption granted under paragraph "a" without conducting an
7 evaluation for a specific evaluation period.

8 c. A health care provider shall not be required to request
9 an exemption from a health carrier to qualify for an exemption
10 under paragraph "a".

11 d. No later than five calendar days after a health care
12 provider qualifies for an exemption, the health carrier shall
13 provide a notice to the health care provider that includes all
14 of the following:

15 (1) A statement that the health care provider qualifies for
16 an exemption under paragraph "a".

17 (2) A complete list of all health benefit plans and health
18 care services to which the exemption applies.

19 (3) The duration of the exemption.

20 e. If a health care provider submits a prior authorization
21 request for a health care service for which the health care
22 provider qualifies for an exemption under paragraph "a",
23 the health carrier shall promptly provide the notice under
24 paragraph "d" to the health care provider and an explanation of
25 the health carrier's claim submission requirements.

26 3. *Duration of exemption.* A health care provider's
27 exemption granted under subsection 2, paragraph "a", shall
28 remain in effect until either of the following occurs:

29 a. The health carrier notifies the health care provider
30 of the health carrier's decision to rescind the health care
31 provider's exemption, and the health care provider fails to
32 appeal the health carrier's decision within thirty calendar
33 days, at which time the health provider's exemption shall be
34 rescinded effective thirty-one calendar days after the date of
35 the health carrier's rescission notice.

1 *b.* If a health care provider appeals a health carrier's
2 decision to rescind the health care provider's exemption within
3 the thirty-day appeal period and the decision is upheld on
4 appeal, the health provider's exemption shall be rescinded
5 effective five calendar days after the date the rescission
6 decision is upheld.

7 4. *Denial of exemption.* A health carrier may deny an
8 exemption for a health care provider for a specific health
9 care service if the health carrier provides the health care
10 provider with sufficient statistics and documentation for the
11 relevant evaluation period to demonstrate that the health
12 care provider does not meet the health carrier's criteria for
13 exemption. The health carrier shall notify the health care
14 provider not more than five calendar days after the date of the
15 health carrier's decision to deny the exemption. At the same
16 time as the notice, the health carrier must provide the health
17 care provider with a plain-language explanation of the health
18 care provider's right to an appeal of, or to an independent
19 review of, the health carrier's decision, and of the process
20 for the health care provider to file an appeal or to request an
21 independent review.

22 5. *Rescission of exemption.*

23 *a.* A health carrier may rescind a health care provider's
24 exemption for a specific health care service granted under
25 subsection 2, paragraph "a", at any of the following times:

26 (1) During January or June of each calendar year.

27 (2) If, during a retrospective review of a random sample
28 of the health care provider's claims, the health carrier
29 determines that less than eighty percent of the claims for
30 the specific health care service met the medical necessity
31 and appropriateness criteria used by the health carrier for
32 conducting a prior authorization review for the specific
33 health care service during the relevant evaluation period. A
34 determination made under this subsection must be made by a
35 health care professional licensed to practice medicine in this

1 state. If a determination is made with respect to a health
2 care professional who is a physician, the determination must
3 be made by a physician licensed in this state who has either
4 the same or a similar medical specialty as the health care
5 professional.

6 *b.* The health carrier must notify the health care provider
7 not less than thirty calendar days before the date that the
8 rescission is effective. At the same time as the notice, the
9 health carrier must provide the health care provider with all
10 of the following:

11 (1) Sufficient statistics and documentation from the
12 health carrier's retrospective review under paragraph "a",
13 subparagraph (2), to substantiate the health carrier's decision
14 to rescind the health care provider's exemption.

15 (2) A plain-language explanation of the health care
16 provider's right to an appeal of, or to an independent review
17 of, the health carrier's decision to rescind the health care
18 provider's exemption, and of the process for the health care
19 provider to file an appeal or to request an independent review.

20 *6. Appeal or independent review.*

21 *a.* A health care provider shall have the right to appeal an
22 adverse exemption determination, and have the right to a review
23 of the determination by an independent review organization.
24 A health carrier shall not require a health care provider to
25 participate in the health carrier's internal appeal process
26 prior to requesting an independent review.

27 *b.* The health carrier shall pay the cost of an appeal
28 and the cost of an independent review requested by a health
29 care provider under this subsection. The costs shall include
30 reasonable fees for copies of applicable medical records or
31 other documents requested from the health care provider during
32 the internal appeal or the independent review.

33 *c.* (1) An independent review organization shall complete an
34 independent review requested by a health care provider under
35 this section no later than thirty calendar days after the date

1 of the health care provider's request.

2 (2) A health care provider may request that the independent
3 review organization evaluate an additional random sample from
4 the relevant evaluation period as part of the independent
5 review organization's review. If the health care provider
6 requests that the independent review organization evaluate an
7 additional random sample, the independent review organization
8 shall base its determination on the medical necessity and
9 appropriateness of both the random samples reviewed under
10 subsection 5, paragraph "a", subparagraph (2), and the random
11 samples reviewed under this subparagraph.

12 d. The health carrier and the health care provider shall
13 be bound by the appeal decision or by the independent review
14 organization's determination.

15 e. If a health carrier's adverse exemption determination is
16 overturned on appeal or by an independent review organization,
17 the health carrier shall not attempt to rescind the health care
18 provider's exemption prior to the end of the next-occurring
19 evaluation period. After the date on which the next-occurring
20 evaluation period ends, the health carrier may rescind the
21 health care provider's exemption if the health carrier complies
22 with subsection 5 and this subsection.

23 f. A health carrier shall not retroactively deny a health
24 care service for a covered person on the basis of the health
25 carrier's rescission of the health care provider's exemption,
26 even if the health carrier's rescission decision is affirmed on
27 appeal or by an independent review organization.

28 7. *Exemption eligibility after rescission or denial.* If
29 an appeal or an independent review organization affirms a
30 rescission or a denial of a health care provider's exemption
31 for a specific health care service, the health care provider
32 shall be eligible for an exemption for the same health care
33 service after the last day of the six-month evaluation period
34 immediately following the evaluation period that was the basis
35 for the denial or rescission.

1 8. *Effect of exemption.*

2 a. A health carrier shall not deny or reduce payment on a
3 health care provider's claim based on the medical necessity or
4 medical appropriateness of care for a health care service for
5 which the health care provider qualified for an exemption under
6 subsection 2, unless the health care provider knowingly and
7 materially misrepresented the health care service in the claim
8 with the specific intent to deceive the health carrier and to
9 obtain an unlawful claim payment.

10 b. A health carrier shall not conduct a retrospective review
11 of a health care service provided by a health care provider who
12 has been allowed an exemption for the health care service under
13 subsection 2, except in the following circumstances:

14 (1) Pursuant to subsection 5, paragraph "a", subparagraph
15 (2).

16 (2) The health carrier has reasonable cause to suspect a
17 basis for denial of a claim under paragraph "a".

18 9. *Scope of practice.* This section shall not be construed
19 to permit a health care provider to provide a health care
20 service outside the scope of the health care provider's
21 license, or to require a health carrier to pay a claim
22 submitted by a health care provider for a health care service
23 outside the scope of the health care provider's license.

24 10. *Applicability.* This section applies to all health
25 benefit plans delivered, issued for delivery, continued, or
26 renewed in this state on or after January 1, 2024.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to prior authorization exemptions for
31 certain health care providers for certain health care services.

32 The bill requires health carriers (carrier) that require
33 prior authorization for certain health care services (services)
34 to grant a health care provider (provider) an exemption,
35 if, in the most recent evaluation period (period), the

1 carrier has approved not less than 80 percent of the prior
2 authorization requests submitted by that provider for the
3 specific service. "Exemption" is defined in the bill as an
4 exception to a carrier's requirement that a provider obtain
5 prior authorization for a specific service. "Evaluation
6 period" is defined in the bill.

7 A carrier shall conduct an evaluation of each health
8 provider that is contracted with the carrier to provide
9 services to the carrier's covered persons a minimum of once
10 every six months to determine if the provider qualifies for an
11 exemption. "Evaluation" is defined in the bill. A carrier
12 may continue an exemption without conducting an evaluation for
13 a specific evaluation period. A provider is not required to
14 request a provider's exemption from a carrier to qualify for an
15 exemption. No later than five calendar days after a provider
16 qualifies for an exemption, the carrier shall provide a notice
17 to the provider that includes a statement that the provider
18 qualifies for an exemption, a complete list of all health
19 benefit plans and services to which the exemption applies, and
20 the duration of the exemption. If a provider submits a prior
21 authorization request for a service for which the provider
22 qualifies for an exemption, the carrier shall promptly provide
23 the provider with the same notice.

24 If a carrier notifies a provider of the carrier's decision
25 to rescind the provider's exemption and the provider fails to
26 appeal the decision within 30 calendar days, the provider's
27 exemption is rescinded effective 31 calendar days after the
28 date of the carrier's notice. If the provider appeals the
29 carrier's decision within the 30-day appeal period and the
30 decision is upheld on appeal, the provider's exemption shall
31 be rescinded five calendar days after the date the decision is
32 upheld.

33 A carrier may deny an exemption for a provider for a
34 specific service if the carrier provides the provider with
35 sufficient statistics and documentation for the relevant

1 period to demonstrate that the provider does not meet the
2 carrier's criteria for exemption. The carrier must satisfy the
3 notification requirements detailed in the bill.

4 A carrier may rescind a provider's exemption during January
5 or June of each year, or if a retrospective review of a
6 random sample of the provider's claims show that less than 80
7 percent of the claims for the specific service met the medical
8 necessity and appropriateness criteria used by the carrier
9 for conducting a prior authorization review for the specific
10 service during the relevant period. "Random sample" is defined
11 in the bill. The determination must be made by a health care
12 professional licensed to practice medicine in this state, and
13 if the determination is made with respect to a health care
14 professional who is a physician, the determination must be made
15 by a physician licensed in this state who has either the same
16 or a similar medical specialty as the health care professional.
17 The carrier must notify the provider not less than 30 days
18 before the date the rescission is effective. The carrier must
19 provide the provider with documentation, as detailed in the
20 bill, with the notice.

21 A provider shall have the right to appeal an adverse
22 exemption determination as detailed in the bill, and the
23 carrier and provider are bound by the appeal decision or the
24 independent review organization's (organization) determination.
25 If a carrier's adverse exemption determination is overturned
26 by an organization, the carrier shall not attempt to rescind
27 the provider's exemption prior to the end of the next occurring
28 period. A carrier shall not retroactively deny a service
29 on the basis of the carrier's rescission of the provider's
30 exemption, even if the carrier's decision is affirmed on appeal
31 or by an organization's determination. If an appeal or an
32 organization's determination affirms the rescission or denial
33 of a provider's exemption for a specific service, the provider
34 shall be eligible for an exemption for the same service after
35 the last day of the six-month period immediately following the

1 period that was the basis for the denial or rescission.

2 A carrier shall not deny or reduce payment on a provider's
3 claim based on the medical necessity or appropriateness
4 of care for a service for which the provider qualified for
5 an exemption, unless the provider knowingly and materially
6 misrepresented the service in the claim with the specific
7 intent to deceive the carrier and to obtain an unlawful
8 claim payment on the claim. A carrier shall not conduct a
9 retrospective review of a service provided by a provider who
10 has been granted an exemption for the service except in the
11 circumstances detailed in the bill.

12 The bill shall not be construed to permit a provider to
13 provide a service outside the scope of the provider's license,
14 or to require a carrier to pay a claim submitted by a provider
15 for a service outside the scope of the provider's license.

16 The bill applies to all health benefit plans delivered,
17 issued for delivery, continued, or renewed in this state on or
18 after January 1, 2024.