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SENATE BILL NO. 581

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact § 38.2-3407.15:2 of the Code of Virginia, relating to health insurance; carrier business practices; prior authorization provisions.

Patron—DeSteph

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 38.2-3407.15:2 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-3407.15:2. Carrier contracts; required provisions regarding prior authorization.**

A. As used in this section, unless the context requires a different meaning:

"Carrier" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Prior authorization" means the approval process used by a carrier before certain drug benefits may be provided.

"Provider contract" has the same meaning ascribed thereto in subsection A of § 38.2-3407.15.

"Supplementation" means a request communicated by the carrier to the prescriber or his designee, for additional information, limited to items specifically requested on the applicable prior authorization request, necessary to approve or deny a prior authorization request.

B. Any provider contract between a carrier and a participating health care provider, or its contracting agent, shall contain specific provisions that:

1. Require the carrier to, in a method of its choosing, accept telephonic, facsimile, or electronic submission of prior authorization requests that are delivered from e-prescribing systems, electronic health record systems, and health information exchange platforms that utilize the National Council for Prescription Drug Programs' SCRIPT standards;

2. Require that the carrier communicate to the prescriber or his designee within 24 hours of submission of an urgent prior authorization request to the carrier, if submitted telephonically or in an alternate method directed by the carrier, that the request is approved, denied, or requires supplementation;

3. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a fully completed prior authorization request, that the request is approved, denied, or requires supplementation;

4. Require that the carrier communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within two business days of submission of a properly completed supplementation from the prescriber or his designee, that the request is approved or denied;

5. Require that if the prior authorization request is denied, the carrier shall communicate electronically, telephonically, or by facsimile to the prescriber or his designee, within the timeframes established by subdivision 3 or 4, as applicable, the reasons for the denial;

6. Require that prior authorization approved by another carrier be honored at least for the initial 30 days of a member's prescription drug benefit coverage, subject to the provisions of the new carrier's evidence of coverage, upon the carrier's receipt from the prescriber or his designee, of a record demonstrating the previous carrier's prior authorization approval;

7. Require that a tracking system be used by the carrier for all prior authorization requests and that the identification information be provided electronically, telephonically, or by facsimile to the prescriber or his designee, upon the carrier's response to the prior authorization request; ~~and~~

8. Require that the carrier's prescription drug formularies, all drug benefits subject to prior authorization by the carrier, all of the carrier's prior authorization procedures, and all prior authorization request forms accepted by the carrier be made available through one central location on the carrier's website and that such information be updated by the carrier within seven days of approved changes; *and*

9. *If a prior authorization request is denied, the requesting participating health care provider shall have the right to a peer-to-peer review with a physician advisor or peer of the treating health care provider, as defined in § 32.1-137.7, who represents the carrier. The peer-to-peer review shall be conducted within three business days of the receipt of notification of the denial.*

C. The Commission shall have no jurisdiction to adjudicate individual controversies arising out of this section.

D. This section shall apply with respect to any contract between a carrier and a participating health care provider, or its contracting agent, that is entered into, amended, extended, or renewed on or after

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59 January 1, 2016, *except that the provisions of subdivision B 9 shall apply with respect to any contract*
60 *between a carrier and a participating health care provider, or its contracting agent, that is entered into,*
61 *amended, extended, or renewed on or after January 1, 2019.*

62 E. Notwithstanding any law to the contrary, the provisions of this section shall not apply to:

63 1. Coverages issued pursuant to Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.
64 (Medicare), Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), Title XXI of the
65 Social Security Act, 42 U.S.C. § 1397aa et seq. (CHIP), 5 U.S.C. § 8901 et seq. (federal employees), or
66 10 U.S.C. § 1071 et seq. (TRICARE);

67 2. The state employee health insurance plan established pursuant to § 2.2-2818;

68 3. Accident only, credit or disability insurance, long-term care insurance, TRICARE supplement,
69 Medicare supplement, or workers' compensation coverages;

70 4. Any dental services plan or optometric services plan as defined in § 38.2-4501; or

71 5. Any health maintenance organization that (i) contracts with one multispecialty group of physicians
72 who are employed by and are shareholders of the multispecialty group, which multispecialty group of
73 physicians may also contract with health care providers in the community; (ii) provides and arranges for
74 the provision of physician services by such multispecialty group physicians or by such contracted health
75 care providers in the community; and (iii) receives and processes at least 85 percent of prescription drug
76 prior authorization requests in a manner that is interoperable with e-prescribing systems, electronic
77 health records, and health information exchange platforms.