

1 A bill to be entitled
2 An act relating to prescription drug utilization
3 management; amending s. 627.42392, F.S.; providing
4 definitions; revising the circumstances under which
5 health insurers and pharmacy benefit managers are
6 required to use prior authorization forms for
7 specified purposes; requiring health insurers and
8 pharmacy benefit managers to offer an online prior
9 authorization process; providing requirements for the
10 process; creating s. 627.42393, F.S.; defining the
11 terms "health insurer" and "step therapy protocol";
12 prohibiting health insurers and health maintenance
13 organizations from requiring insureds or subscribers
14 to repeat step therapy protocols; providing that
15 certain health insurers and health maintenance
16 organizations may impose a specified requirement for
17 continued coverage; providing that such entities are
18 not required to take specified actions; providing
19 applicability; providing an effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 627.42392, Florida Statutes, is amended
24 to read:

25 627.42392 Prior authorization.—

26 (1) As used in this section, the term:

27 (a) "Electronic prior authorization process" does not
28 include transmissions through a facsimile machine.

29 (b) "Health insurer" means an authorized insurer offering
30 health insurance as defined in s. 624.603, a managed care plan
31 as defined in s. 409.962(10), or a health maintenance
32 organization as defined in s. 641.19(12).

33 (c) "Prior authorization" means a statement from a health
34 insurer that a certain medical service or treatment is covered
35 under the terms of a policy or contract for a specific period of
36 time.

37 (2) Notwithstanding any other provision of law, effective
38 January 1, 2017, or 6 ~~six (6)~~ months after the effective date of
39 the rule adopting the prior authorization form, whichever is
40 later, a health insurer, or a pharmacy benefit ~~benefits~~ manager
41 on behalf of the health insurer, ~~which does not provide an~~
42 ~~electronic prior authorization process for use by its contracted~~
43 ~~providers,~~ shall only use the prior authorization form that has
44 been approved by the Financial Services Commission for granting
45 a prior authorization for a medical procedure, course of
46 treatment, or prescription drug benefit. Such form may not
47 exceed two pages in length, excluding any instructions or
48 guiding documentation, and must include all clinical
49 documentation necessary for the health insurer to make a
50 decision. At a minimum, the form must include:

51 (a)~~(1)~~ Sufficient patient information to identify the
52 member, date of birth, full name, and Health Plan ID number;

53 (b)~~(2)~~ The provider's ~~provider~~ name, address, and phone
54 number;

55 (c)~~(3)~~ The medical procedure, course of treatment, or
56 prescription drug benefit being requested, including the medical
57 reason therefor, and all services tried and failed;

58 (d)~~(4)~~ Any laboratory documentation required; and

59 (e)~~(5)~~ An attestation that all information provided is
60 true and accurate.

61 (3) The Financial Services Commission in consultation with
62 the Agency for Health Care Administration shall adopt by rule
63 guidelines for all prior authorization forms which ensure the
64 general uniformity of such forms.

65 (4) Electronic prior authorization approvals do not
66 preclude benefit verification or medical review by the insurer
67 under either the medical or pharmacy benefits.

68 (5) Effective January 1, 2020, a health insurer, or a
69 pharmacy benefit manager on behalf of the health insurer, must
70 offer a secure, online electronic prior authorization process
71 for accepting electronic prior authorization forms. All
72 contracted providers must use a health insurer's electronic
73 process to request prior authorization for medical services and
74 treatment provided to an insured or a subscriber. A health
75 insurer may make an electronic request to the provider for

76 additional information, if necessary, to complete its
 77 determination to grant or deny a request for prior
 78 authorization.

79 Section 2. Section 627.42393, Florida Statutes, is created
 80 to read:

81 627.42393 Step therapy protocols.—

82 (1) As used in this section, the term:

83 (a) "Health insurer" means a health insurer as defined in
 84 s. 627.42392 which is covering or has previously covered the
 85 insured under a major medical policy or contract.

86 (b) "Step therapy protocol" means a written protocol that
 87 specifies the order in which a prescription drug must be used to
 88 treat an insured's condition.

89 (2) (a) A health insurer may not impose a step therapy
 90 protocol for a covered prescription drug if:

91 1. The insured has been approved to receive the
 92 prescription drug through a step therapy protocol imposed by a
 93 health insurer that previously issued major medical coverage to
 94 the insured; and

95 2. The insured is currently taking the drug, as evidenced
 96 by the health insurer that approved the drug as described under
 97 subparagraph 1. having made payment for the drug on the
 98 insured's behalf within the prior 90 days.

99 (b) This section does not preclude an insured's new health
 100 insurer from imposing a prior authorization requirement for the

101 continued coverage of a drug prescribed pursuant to a step
102 therapy protocol that was imposed by the former health insurer.

103 (c) A health insurer is not required to add a drug to its
104 prescription drug formulary, or to cover a prescription drug's
105 use for a purpose not currently covered by the insurer, to
106 comply with this section.

107 (3) This section applies to contracts entered into or
108 renewed on or after January 1, 2020. This section does not apply
109 to Medicaid managed care plans under part IV of chapter 409.

110 Section 3. This act shall take effect July 1, 2019.