

# HHSC Proposed Rules

## Prior Authorization Requests

September 8, 2023



**Summary:** HHSC has published [proposed rules](#) on prior authorizations (PAs) in the Texas Register, implementing the PA provisions in SB 1207, the 86th Regular Session in 2019.. The rules describe a uniform timeline and process for an MCO to use when reviewing a PA request submitted with incomplete or insufficient documentation. They also require an MCO to maintain on its website in a searchable format the applicable timelines for PA requirements, an accurate catalog of coverage criteria, and contact information for the MCO.

### Key Takeaways:

- Rule proposal closely aligns with the statute, which TAHP negotiated in SB 1207.
- The proposal is very similar to the managed care contracts and the Uniform Managed Care Manual, with a few exceptions:
  - If an MCO doesn't receive information they've requested from a provider on an incomplete PA, current practice requires the MCO to refer the incomplete PA for MCO physician review. The proposed rules require review by the MCO Medical Director.
  - The proposal requires MCOs to maintain a public-facing website outlining certain PA policies and specifies that information must be accessible and capable of being found and read without a username and password.
- However, there are few items in the rules that do not align with the statute or what is in contract, for example the requirement that plans make a determination within three days rather than three business days.

### **§353.425 MCO Processing of Prior Authorization Requests Received with Incomplete or Insufficient Documentation.**

This section creates a uniform timeline and process for an MCO to use when reviewing a PA request submitted with incomplete or insufficient documentation for a member who is not hospitalized at the time of the request.

**Procedure for Incomplete Requests:** If an MCO receives an incomplete PA request:

- The MCO must notify the requesting provider and the member, in writing, **no later than three business days** after receipt of the request.

- If an MCO does not receive the requested information within three business days, the MCO **must refer the PA request to the MCO medical director** for review before making an adverse determination.
- The MCO must offer the requesting physician an opportunity for a **peer-to-peer consultation no less than one business day** before issuing an adverse benefit determination.
- The MCO must make a final determination as expeditiously as the member's condition requires but **no later than three days** after the date the missing information is provided to an MCO.

The requirements for reconsideration of an incomplete PA request **do not affect any related timeline** for an internal appeal process, a Medicaid fair hearing, a review by an external medical reviewer, or any rights of a member to appeal a PA determination.

### **§353.427. Accessibility of Information Regarding Medicaid Prior Authorization Requirements.**

This section requires an MCO to maintain on its website in an easily searchable and accessible format the applicable timelines for PA requirements, an accurate catalog of coverage criteria and PA requirements, and the process and contact information for a provider or member to contact the MCO.

**Accessibility of Information:** For this information to be “accessible,” it must be capable of being found and read without impediment, such as a username and password requirement.

An MCO must maintain on its public-facing website:

- **Applicable timelines**, including the timeframe to make a determination, a description of the notice MCOs provide regarding required documentation, and the deadline by which an MCO must provide notice.
- An accurate and up-to-date **catalog of coverage criteria and PA requirements**, including the effective date of a PA requirement imposed on or after September 1, 2019, a list of any necessary supporting documentation, and the date and results of each annual review of PA requirements.
- The process and **contact information** for a provider or member to contact the MCO to clarify PA requirements obtain assistance in submitting a request.