



Texas Association of Health Plans
1001 Congress Ave., Suite 300
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September 5, 2024

Re: Prior Authorization in Texas

Dear Chairman Oliverson and Members of the House Insurance Committee,

Prior authorization (PA) is a proven tool that ensures patients get the most up-to-date evidence-based treatments and avoid care that strays from the latest medical evidence, may cause adverse events, and could complicate or worsen conditions. At the same time, health plans recognize the burden that PAs can have on provider practices and support collaborative efforts to improve the system.

Health insurers are committed to finding a better approach to PAs that uses innovations in technology to enable a smarter, faster, and less burdensome system. However, blanket restrictions against PAs risk patient harm and increased health care spending. Over a dozen studies show that PAs discourage physicians from ordering unnecessary tests, procedures, or treatments when approval for those services is subject to external review. [Milliman estimates](#) that restricting PAs could increase premiums by 5.6% to 16.7%.

TAHP supports a more streamlined approach to PAs that recognizes the importance of protecting patient safety and avoiding wasteful care while limiting unnecessary burden. These shared goals would benefit patients, providers, and health plans alike.

Patient Safety and the Need for Prior Authorization

Any discussion of PA process improvements has to first account for the high prevalence of overtreatment and unnecessary or unsafe care. [65% of physicians themselves report](#) that overtreatment is common and 15-30% of medical care is unnecessary or unsafe. Medical knowledge is rapidly evolving, creating a challenge for time-constrained physicians. PAs play a critical role in supporting physicians by ensuring that the latest medical evidence is applied to patient care. PAs are physician-led and grounded in current scientific research. When applied efficiently, PAs support providers without adding unnecessary administrative hassle.

Physicians might recommend surgeries that are not medically necessary, such as certain elective or experimental procedures. PAs require a review of the medical necessity for the surgery, reducing the likelihood that patients undergo potentially risky or ineffective procedures. For



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example, surgeries like spinal fusion for chronic back pain may require a PA to ensure that less invasive treatments are not more appropriate.

Another leading example of the need for PAs is to avoid dangerous drug interactions and abuse of addictive medications. For patients on multiple medications, PAs ensure that new prescriptions are evaluated for potential interactions with the patient's existing treatment regimen. For instance, if a doctor prescribes a new anticoagulant (blood thinner), PAs allow the insurer to assess whether the patient is taking other medications that may dangerously interact with those prescriptions, such as certain anti-inflammatory drugs that increase the risk of bleeding. Health insurers have a full view of all of a patient's medical care to allow for this careful review.

Texas has the Strictest PA Requirements in the Country

State-regulated health plans in Texas are currently under the strictest PA timelines in the country. Plans must respond to standard PAs in three calendar days. This requirement shortens to 24 hours if the patient is hospitalized, and to only one hour if the request is for post-stabilization care. These standards go beyond federal requirements for Medicare, Medicaid, and self-funded plans as well as state Medicaid requirements.

Embracing Technological Advancements Can Improve Prior Authorization Processes

One way to significantly reduce the burden that PAs can cause is to move towards [electronic PAs \(ePA\)](#). The industry has taken significant steps in studying the effectiveness of ePAs as well as operationalizing it, and the results are extremely promising. The median time between submitting a PA request and receiving a decision was more than three times faster in an ePA system. Additionally, 60% of providers said ePA made PA requirements easier to understand. [The Council for Affordable Quality Healthcare \(CAQH\)](#) found that the health care market could save \$13.3 billion by automating utilization management through ePA systems.

The federal government is already taking significant steps towards ePAs. The Center for Medicare & Medicaid Services' Advancing Interoperability and Improving Prior Authorization Processes [Final Rule](#) requires impacted plans to maintain four Application Programming Interfaces (API) that enable and support ePA. These APIs provide additional utilization review information and real-time functionality to both patients and providers. While the rules themselves are largely focused on plans sold on the individual market, we expect that many plans will choose to implement APIs across their product types.



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Despite these new tools becoming available, many providers are still choosing to use outdated manual systems. The state could improve the PA process by creating a way for insurers and providers to collaborate, with both groups working towards the eventual goal of broad ePA adoption. This would significantly reduce the administrative burden for providers and plans, and ultimately ensure that patients receive care as quickly as possible.

Goldcarding Program Concerns

Goldcarding programs are initiatives created by health insurers to streamline the PA process for health care providers who consistently demonstrate adherence to evidence-based guidelines and provide high-quality care. These insurer-created innovations existed well before the Texas goldcarding program created by [HB 3459](#) (87th). In these programs, providers who meet specific performance and compliance criteria are granted expedited or automatic approval for certain treatments or procedures, reducing the administrative burden associated with PAs. Insurers identify these high-performing providers by analyzing metrics such as their rates of unnecessary procedures and patient outcomes. Once gold carded, these providers enjoy faster approvals or exemption from PAs for specific services, fostering efficiency, patient safety and cost-effectiveness in the health care system.

However, goldcarding programs must also take into account changing medical evidence and potential for abuse. The Texas goldcarding law does not allow for any retroactive review that would allow health plans to “trust but verify.” The goldcarding law also does not distinguish between procedures based on risk for abuse and patient harm. Instead, the law protects a provider’s gold card from any future review as a result of unworkable and burdensome administrative requirements. Few other states have adopted state-imposed and heavily regulated goldcarding programs similar to Texas. TAHP encourages reforms that would more appropriately define goals while avoiding overly prescribing processes or risking patient safety, overtreatment, and wasteful care.

Concerns Related to Inappropriate Medical Board Involvement

Creating oversight of PAs at the Texas Medical Board (TMB) is also inappropriate. Reviewing medical care for appropriateness and safety is not practicing medicine. Reviewers do not—and should not—rewrite diagnoses, change prescriptions, or examine patients. Making PAs the practice of medicine creates legal concerns and conflicts with the state’s corporate practice of medicine doctrine. This enforcement authority will create a chilling effect on physicians that currently conduct PA safety checks for fear of enforcement actions at an unaccountable TMB.



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While challenging to implement, the Texas Department of Insurance (TDI) has appropriately enforced the new goldcarding law along with extensive existing PA requirements. TDI should continue to be the enforcement agency for utilization review.

Recommendations

TAHP and our member plans understand that PAs can be burdensome to providers, patients, and the plans that administer them. However, overly prescriptive laws and rules have made the process worse. Any reforms to PAs should recognize the important and collaborative role that PAs play in the health care system: ensuring patients receive only safe and evidence-based care. Medical evidence is rapidly expanding, and insurers can be a reliable source for the latest evidence-based practices through PA edits.

The state needs a more collaborative, common-sense approach on making PAs work. While we understand the aim of the goldcarding law—as it is based on insurer innovations that existed long before the law itself—the state mandated system needs more flexibility. We are opposed to expanding the current goldcarding system which we believe opens the door for abuse and potentially puts patients at risk. In addition, the state should take steps towards moving providers to real-time electronic PAs. We are committed to finding an approach to PAs that can take advantage of innovations in technology to move to a smarter, faster, less burdensome system.

- **Allow Flexibility in Gold Carding Programs:** The current gold carding law is unnecessarily prescriptive. Before the state passed this law, plans were implementing their own gold carding programs, rewarding exemplary providers without putting patients at risk. The state should remove some of the prescriptive requirements in the gold carding law, such as rigid timelines, and allow plans to deliver outcomes based on a broader and more flexible framework.
- **Protect Against Fraud, Waste, and Abuse:** Under current law, goldcarded physicians have a free pass to commit fraud, waste, and abuse as health plans have no way to deny these claims. This is extremely dangerous for Texans. We ask that the Legislature amend the law to allow issuers to deny claims from goldcarded physicians that meet the definition of health care fraud under the Penal Code.
- **Stop Gold Carding Risky and Abusive Procedures:** Some types of care are especially risky, such as opioid drugs, other Schedule II controlled substances, and drugs with black box label warnings. In these high-stakes cases, providers should be providing safe care



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100% of the time—not 90% of the time. Health plans need the freedom to continue prior authorizations on the highest risk cases which can result in deadly or irreversible harm to patients.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The signature is written in a cursive, flowing style.

Jamie Dudensing, RN
CEO
Texas Association of Health Plans