



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-6041/1
TJD:cdc

2021 SENATE BILL 972

February 9, 2022 - Introduced by Senator TESTIN, cosponsored by Representative VANDERMEER. Referred to Committee on Insurance, Licensing and Forestry.

1 **AN ACT** *to amend* 632.85 (title) and 632.85 (3); and *to create* 632.85 (1) (d) and
2 632.851 of the statutes; **relating to:** prior authorization for coverage of
3 physical therapy and other services under health plans.

Analysis by the Legislative Reference Bureau

Generally, this bill requires and prohibits certain actions related to prior authorization of physical therapy and other health care services by certain health plans. Under the bill, every health plan, when requested to reauthorize coverage, must issue a decision on reauthorization of coverage of a service for which prior authorization was previously obtained within 48 hours or prior authorization is assumed to be granted. Health plans are prohibited under the bill from requiring prior authorization for the first 12 physical therapy visits with no duration of care limitation or for any nonpharmacologic management of pain provided through care related to physical therapy provided to individuals with chronic pain for the first 90 days of treatment. The bill requires plans to reference the applicable policy and include an explanation to the physical therapy service provider and to the covered individual for an denial of coverage for or reduction in covered physical therapy services and to compensate physical therapy service providers as specified under the bill for data entry of clinical information that is required by a utilization review organization or utilization management organization acting on behalf of a plan. A plan must also impose copayment and coinsurance amount on covered individuals for physical therapy services that are equivalent to copayment and coinsurance amounts imposed for primary care services under the plan.

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The bill also requires every utilization review organization and utilization management organization that is providing review or management on behalf of a health plan to provide to any licensed health care provider, upon request, all medical evidence-based policy information that accompanies the algorithms that are used to manage coverage and to operate and staff peer review activities with Wisconsin-licensed health care providers holding credentials for the type of service that is the subject of the review. The bill prohibits utilization review organizations and utilization management organizations from using claims data as evidence of outcomes for purposes developing an algorithm to manage coverage or an approval policy for coverage. Health plans to which the above requirements and prohibitions apply are private health benefit plans and self-insured governmental health plans.

Additionally, the bill prohibits health care plans and self-insured governmental health plans from requiring prior authorization for coverage of any covered health care service that is incidental to a primary covered health care service and determined by the covered person's physician or other health care provider to be medically necessary and of any covered urgent health care service as defined in the bill. Current law prohibits health care plans and self-insured governmental health plans from requiring prior authorization for coverage of emergency medical services.

This proposal may contain a health insurance mandate requiring a social and financial impact report under s. 601.423, stats.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 632.85 (title) of the statutes is amended to read:

2 **632.85 (title) Coverage without prior authorization for treatment of an**
3 **emergency medical condition; other conditions.**

4 **SECTION 2.** 632.85 (1) (d) of the statutes is created to read:

5 632.85 (1) (d) "Urgent health care service" means a health care service for
6 which the application of the time for making a nonexpedited request for prior
7 authorization, in the opinion of a physician or other health care provider with
8 knowledge of the covered person's medical condition, could do any of the following:

9 1. Seriously jeopardize the life or health of the covered person or the ability of
10 that person to regain maximum function.

SENATE BILL 972**SECTION 2**

1 2. Subject the covered person to severe pain that cannot be adequately
2 managed without the care or treatment that is the subject of the utilization review.

3 **SECTION 3.** 632.85 (3) of the statutes is amended to read:

4 632.85 (3) A health care plan or a self-insured health plan that is required to
5 provide the coverage under sub. (2) may not require prior authorization for the
6 provision or coverage of the emergency medical services specified in sub. (2), any
7 covered health care service that is incidental to a primary covered health care service
8 and determined by the covered person's physician or other health care provider to be
9 medically necessary, or any covered health care service that is an urgent health care
10 service.

11 **SECTION 4.** 632.851 of the statutes is created to read:

12 **632.851 Prior authorization; general; physical therapy.** (1) In this
13 section:

14 (a) "Health benefit plan" has the meaning given in s. 632.745 (11).

15 (b) "Self-insured health plan" means a self-insured health plan of the state or
16 a county, city, village, town, or school district.

17 (2) A health benefit plan or self-insured health plan that uses prior
18 authorization procedures may not do any of the following:

19 (a) Require prior authorization for the first 12 physical therapy visits with no
20 duration of care limitation. A plan may require prior authorization for visits after
21 the initial 12 physical therapy visits of an episode of care for a specific condition.

22 (b) Require prior authorization for any nonpharmacologic management of pain
23 provided through care related to physical therapy provided to individuals with
24 chronic pain for the first 90 days of treatment.

SENATE BILL 972**SECTION 4**

1 **(3)** A health benefit plan or self-insured health plan that provides coverage of
2 physical therapy services shall do all of the following with respect to physical therapy
3 services:

4 (a) Reference the applicable policy and include an explanation to the physical
5 therapy service provider and, in plain language, to the covered individual for any
6 denial of coverage or reduction in covered services.

7 (b) Compensate providers of physical therapy services at 50 percent of the
8 current procedure terminology code rate for a therapeutic physical therapy
9 procedure on one or more areas each lasting 15 minutes for each quarter hour of data
10 entry of clinical information that is required by a utilization review organization or
11 utilization management organization acting on behalf of a plan. The physical
12 therapy service provider shall invoice the utilization review organization or
13 utilization management organization monthly to obtain the compensation described
14 under this paragraph or the health benefit plan or self-insured health plan shall
15 increase reimbursement to physical therapy service providers commensurate with
16 increased administrative expenses.

17 (c) Impose copayment and coinsurance amounts on covered individuals for
18 physical therapy services that are equivalent to copayment and coinsurance
19 amounts imposed on covered individuals for primary care services under the plan.

20 **(4)** Every health benefit plan or self-insured health plan when requested to
21 reauthorize coverage of a service for which prior authorization was previously
22 obtained shall issue the decision on reauthorization within 48 hours of the request.
23 If a plan does not issue a decision on reauthorization described under this subsection
24 within 48 hours, prior authorization is assumed to be granted for the service.

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1 **(5)** Every utilization review organization and utilization management
2 organization that is providing review or management on behalf health benefit plan
3 or self-insured health plan shall do all of the following:

4 (a) Provide to any licensed health care provider upon request all medical
5 evidence-based policy information that accompanies the algorithms that are used
6 to manage coverage. A utilization review organization or utilization management
7 organization may not use claims data as evidence of outcomes for purposes
8 developing an algorithm to manage coverage or an approval policy for coverage.

9 (b) Operate and staff peer review activities with health care providers that are
10 licensed in this state and hold credentials for the type of service that is the subject
11 of the review.

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(END)