

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1383

S.P. 548

In Senate, March 28, 2023

**An Act to Regulate Insurance Carrier Prior Authorization
Requirements for Physical and Occupational Therapy Services**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.
Cosponsored by Representative MATHIESON of Kittery and
Senators: BENNETT of Oxford, HICKMAN of Kennebec, Representatives: ARFORD of
Brunswick, COPELAND of Saco, GEIGER of Rockland, GRAHAM of North Yarmouth,
MORRIS of Turner, MURPHY of Scarborough.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4304, sub-§1**, as amended by PL 2007, c. 199, Pt. B, §13, is
3 further amended to read:

4 **1. Requirements for medical review or utilization review practices.** A carrier ~~must~~
5 shall appoint a medical director who is responsible for reviewing and approving the carrier's
6 policies governing the clinical aspects of coverage determinations by any health plan that
7 it offers or renews. A carrier's medical review or utilization review practices must be
8 governed by the standard of medically necessary health care as defined in this chapter. A
9 carrier shall provide clear written policies and procedures to providers and insureds on how
10 to obtain a prior authorization.

11 **Sec. 2. 24-A MRSA §4304-A** is enacted to read:

12 **§4304-A. Prior authorization for physical therapy, occupational therapy,**
13 **chiropractic services and physical medicine or rehabilitation**

14 This section governs prior authorization for physical therapy, occupational therapy and
15 physical medicine or rehabilitation.

16 **1. Prior authorization for new episode of care prohibited for 12 visits.** A carrier
17 may not require prior authorization for rehabilitative or habilitative services, including, but
18 not limited to, physical therapy, occupational therapy services or chiropractic services for
19 the first 12 visits of each new episode of care. For purposes of this subsection, "new
20 episode of care" means treatment for a new or recurring condition for which an insured has
21 not been treated by the provider within the previous 90 days. After the 12 visits of each
22 new episode of care, a carrier may not require prior authorization more frequently than
23 every 6 visits or every 30 days, whichever time period is longer.

24 **2. Prior authorization for chronic pain prohibited for 90 days.** A carrier may not
25 require prior authorization for physical medicine or rehabilitation services provided to
26 patients with chronic pain for the first 90 days following diagnosis in order to provide the
27 necessary nonpharmacologic management of the pain. After the first 90 days following a
28 chronic pain diagnosis, a carrier may not require prior authorization more frequently than
29 every 6 visits or every 30 days, whichever time period is longer. For purposes of this
30 subsection, "chronic pain" means pain that persists or recurs for more than 3 months.

31 **3. Response time; additional information.** A carrier shall respond to a prior
32 authorization request for services or visits in an ongoing plan of care under this section
33 within 24 hours. If a carrier requires more information to make a decision on the prior
34 authorization request, the carrier shall notify the patient and the provider within 24 hours
35 of the initial request with the information that is needed to complete the prior authorization
36 request, including but not limited to the specific tests and measures needed from the patient
37 and provider. A carrier shall make a decision on the prior authorization request within 24
38 hours of receiving the requested information.

39 **4. Approval of prior authorization.** This subsection governs circumstances in which
40 a prior authorization for covered services under this section is deemed to be approved by a
41 carrier. A prior authorization is deemed to be approved if a carrier:

42 A. Fails to timely answer a prior authorization request in accordance with subsection
43 3, including due to a failure of the carrier's prior authorization platform or process; or

