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Final Fiscal Note

Drafting Number: LLS 24-0202 Date: June 17, 2024
Prime Sponsors: Rep. Bird; Frizell Bill Status: Signed into Law
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Bill Topic: PRIOR AUTHORIZATION REQUIREMENTS ALTERNATIVES

Summary of Fiscal Impact:
State Revenue [] State Diversion [x] Local Government []
State Expenditure [x] TABOR Refund [] Statutory Public Entity []

The bill modifies requirements for prior authorization of certain procedures and prescription drugs. It creates a General Fund diversion and increases state expenditures beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires and includes an appropriation of \$36,514 to the Department of Regulatory Agencies.

Fiscal Note Status: This final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24-1149

Table with 3 columns: Category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Diversions (General Fund, Cash Funds, Net Diversion), and Other Budget Impacts.

Summary of Legislation

The bill establishes prior authorization requirements for certain health care services and prescription drug benefits covered under a health benefit plan. Specifically, carriers, private utilization review organizations, and pharmacy benefit managers (PBMs) must:

- develop and adopt a program that eliminates or substantially modifies the prior authorization administrative process for qualified health care providers who meet certain criteria;
- establish a binding arbitration process for a carrier's failure to include a provider in the program;
- publicly disclose information on prior authorization requirements and restrictions including a list of drugs that require prior authorization, clinical criteria for reauthorization, standard forms, data on prior authorization request determinations, exemptions, and prescription drug formularies;
- annually review and eliminate prior authorization requirements for services and drugs that do not promote health care quality or equity, nor reduce health care spending;
- upon denial of a prior authorization, provide relevant alternative services or treatments that may be covered;
- use an application programming interface that automates the prior authorization process for providers to access certain information; and,
- accept and respond to prior authorization requests through the secure electronic transmission system through which the request was submitted.

The bill establishes various exceptions from prior authorization requirements, including fraudulent or misrepresented requests, removal of prescription drugs from the market, and availability of a generic equivalent on a carrier's drug formulary.

Carriers and private utilization review organizations are prohibited from denying an approved surgical procedure, or additional or related claim, under specific circumstances. Additionally, the bill extends the duration of an approved prior authorization from 180 days to a calendar year.

State Diversion

This bill diverts General Fund to the Division of Insurance Cash Fund starting in FY 2024-25. This revenue diversion occurs because the bill increases costs in the Division of Insurance in the Department of Regulatory Agencies (DORA), which is funded with premium tax revenue that is otherwise credited to the General Fund.

State Expenditures

The bill increases state expenditures in DORA by about \$44,000 in FY 2024-25 and \$56,000 in FY 2025-26, paid from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 24-1149

	FY 2024-25	FY 2025-26
Department of Regulatory Agencies		
Personal Services	\$29,332	\$43,998
Operating Expenses	\$512	\$768
Capital Outlay Costs	\$6,670	-
Centrally Appropriated Costs ¹	\$7,545	\$11,317
Total Cost	\$44,059	\$56,083
Total FTE	0.4 FTE	0.6 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Staff. Starting in FY 2024-25, DORA requires 0.5 FTE Rate/Financial Analyst II to make rules regarding prior authorization data disclosures and investigate provider and consumer complaints. Starting in FY 2025-26, DORA requires an additional 0.1 FTE Rate/Financial Analyst II to review form and rate filings for compliance. Staff costs are prorated in the first year based on the bill's effective date and standard operating and capital outlay costs are included.

Legal services. DORA may require legal services, provided by the Department of Law, which can be accomplished within existing legal services appropriations. Legal counsel is related to rulemaking, implementation, ongoing program administration, and complaints.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Effective Date

The bill was signed into law by the Governor on June 3, 2024, and takes effect on August 7, 2024, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires and includes an appropriation of \$36,514 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies, and 0.4 FTE.

State and Local Government Contacts

Health Care Policy and Financing Information Technology Law Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).