SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4335

(SENATE AUTHORS: PHA)

DATE	D-PG	OFFICIAL STATUS
02/29/2024	11837	Introduction and first reading Referred to Commerce and Consumer Protection

A bill for an act

relating to health care; modifying utilization review for prescription drug coverage; amending Minnesota Statutes 2022, sections 62M.02, subdivision 12; 62M.17, subdivision 2, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2022, section 62M.02, subdivision 12, is amended to read:

Subd. 12. **Health benefit plan.** "Health benefit plan" means a policy, contract, or certificate issued by a health plan company for the coverage of medical, dental, prescription drug, or hospital benefits. A health benefit plan does not include coverage that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity, or nonexpense incurred basis;

(5) credit accident and health insurance issued under chapter 62B;

(6) blanket accident and sickness insurance as defined in section 62A.11;

(7) accident only coverage issued by a licensed and tested insurance agent; or

(8) workers' compensation.

Sec. 2. Minnesota Statutes 2022, section 62M.17, subdivision 2, is amended to read:

Subd. 2. **Effect of change in prior authorization clinical criteria.** (a) If, during a plan year, a utilization review organization changes coverage terms for a health care service or the clinical criteria used to conduct prior authorizations for a health care service, the change in coverage terms or change in clinical criteria shall not apply until the next plan year for any enrollee who received prior authorization for a health care service using the coverage terms or clinical criteria in effect before the effective date of the change.

(b) Paragraph (a) does not apply if a utilization review organization changes coverage terms for a drug or device that has been deemed unsafe by the United States Food and Drug Administration (FDA); that has been withdrawn by either the FDA or the product manufacturer; or when an independent source of research, clinical guidelines, or evidence-based standards has issued drug- or device-specific warnings or recommended changes in drug or device usage.

(c) Paragraph (a) does not apply if a utilization review organization changes coverage terms for a service or the clinical criteria used to conduct prior authorizations for a service when an independent source of research, clinical guidelines, or evidence-based standards has recommended changes in usage of the service for reasons related to patient harm.

~~(d) Paragraph (a) does not apply if a utilization review organization removes a brand name drug from its formulary or places a brand name drug in a benefit category that increases the enrollee's cost, provided the utilization review organization (1) adds to its formulary a generic or multisource brand name drug rated as therapeutically equivalent according to the FDA Orange Book, or a biologic drug rated as interchangeable according to the FDA Purple Book, at a lower cost to the enrollee, and (2) provides at least a 60-day notice to prescribers, pharmacists, and affected enrollees.~~

Sec. 3. Minnesota Statutes 2022, section 62M.17, is amended by adding a subdivision to read:

Subd. 3. **Prescription drug authorization.** (a) Any authorization for a prescription drug must remain valid for the duration of an enrollee's contract term, provided the drug continues to be prescribed for a patient with a condition that requires ongoing medication therapy.

(b) Paragraph (a) does not apply if a utilization review organization invalidates an authorization for a prescription drug that has been deemed unsafe by the United States Food and Drug Administration (FDA) or that has been withdrawn by either the FDA or the drug manufacturer, or when an independent source of research, clinical guidelines, or

evidence-based standards have issued drug-specific warnings or recommended changes in drug usage.