

House Bill 3459 “Gold Card Act”

KEY POINTS

Preauthorization refers to a decision made by a health plan that a health care service, treatment plan, prescription drug, or durable medical equipment is medically necessary before the service is provided. Also referred to as prior authorization.

Preauthorization Exemption for Select Providers

HB 3459 requires commercial, state-regulated health plans to exempt health care providers for one year from obtaining a preauthorization for selected health care service if in the previous year:

- submitted at least five preauthorization requests for the same health care service; and
- health plan approved at least 90% of the physician or provider’s submitted preauthorization requests.

Provider Notice by January 30th Health plans are required to notify who qualify for the exemption by January 30th of every year. The notice includes a list of health care services and health plans to which the exemption is applied.

Payment of Claims Health plans cannot deny or reduce payments for a healthcare service(s) under the gold card exemption.

Peer to Peer Utilization Reviews Health plans must provide a reasonable opportunity for a physician or provider to discuss a potential preauthorization denial with a physician licensed to practice in Texas.

CONSIDERATIONS

Administrative Denials The exemption only applies to medical necessity for select services. Health plans can still apply administrative denials. These are made when contractual requirements are not met such benefit limitations, provider is out of network, or patient is ineligible at the time of service due to coverage start date.

Patient Safety and Clinical Edits Providers must still adhere to scope of work and consider clinical edits such as age limits on prescriptions.

NEXT STEPS

TDI Rule Development Texas Department of Insurance (TDI) will draft rules to implement this bill. TDI requested public input in September through a request for information and stakeholder meeting. In the process, health plans raised concerns about including prescription drugs in gold card exemptions. TACHC will track progress and continue to provide updates to members.

REFERENCE

Texas Insurance Code § 4201. Subchapter N. Exemption from Preauthorization Requirements for Physicians and Providers Providing Certain Health Care Services.

IMPLICATIONS FOR HEALTH CENTERS



Health care providers include physicians and other FQHC providers that can generate an encounter. Providers with a record of approved preauthorizations can earn a “gold card”. Health plans will provide a notice to providers if they are eligible for an exemption by January 30, 2022. Physicians and providers can appeal a gold card exemption denial.



HB 3459 does not provide a blanket exemption for preauthorization for all services. The exemption only applies to a specific provider, services, and health plans listed in the health plan notice. Services may include but are not limited to: prescriptions, laboratory services, and durable medical equipment. We will know the final scope of services included in the bill once the TDI rules are finalized.



Patients with commercial health plan coverage may be able to avoid delays in care if their provider and healthcare service fall under the gold card exemption. The exemptions do not apply to Medicaid and CHIP.



Health center billing and administrative staff may avoid delays with preauthorization and denied payments if services rendered are included in a gold card exemption.