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March 20, 2023

Chairman Scott Louser
House Industry, Business and Labor Committee
North Dakota State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505

Re: AHIP Concerns on SB 2389, *Relating to Prior Authorization for Health Insurance*

Dear Chairman Louser and Members of the Committee,

On behalf of AHIP, I am writing to express our concerns with SB 2389, *Relating to Prior Authorization for Health Insurance*. We appreciate the opportunity to provide feedback on the legislation and your consideration of our concerns.

Health insurance providers work diligently to ensure that enrollees are getting the right care, at the right time, from the right provider. Utilization management tools, like prior authorization, are critically important to ensure enrollees receive safe, evidence-based, timely, and high-quality care. These tools rely upon provider-developed clinical guidelines, consultation with specialists, input from medical associations, and nationally recognized care criteria to ensure consideration of the latest medical evidence based on the highest standards of care.

SB 2389 will increase health care costs and exacerbate inappropriate or unsafe treatments. As proposed, AHIP is concerned that SB 2389 is broadly written and could undermine the essential role of prior authorization in addressing the long-standing challenges to safe and affordable evidence-based health care. Under the supervision of medical professionals, prior authorization reduces inappropriate, unsafe and low value patient care and it helps to lower a patient's out-of-pocket costs, protect patients, prevent overuse, misuse or unnecessary (or potentially harmful) care, and ensure care is consistent with evidence-based practices.

Prior authorization is only used in limited circumstances and the percentage of services requiring prior authorization is relatively small (typically less than 15 percent). However, health plans report that up to 25 percent of prior authorization requests they receive from clinicians are for care that is not supported by medical evidence and 65% of physicians themselves have reported that at least 15-30 percent of medical care is unnecessary. A [JAMA study](#) estimates that waste in our health care system ranged from \$760 billion to \$935 billion, approximately 25 percent of total health care spending.

SB 2389 prioritizes provider payment over patient safety. AHIP is concerned that SB 2389 creates a review and appeals process that guarantees provider payments at the expense of patient safety. Numerous studies show that Americans frequently receive inappropriate care including overuse, misuse, or underuse of health care services. In fact, data shows that [unnecessary treatments](#) are associated with complications or adverse events, and billions of dollars are wasted annually on excessive testing and treatment. A recent study from [Johns Hopkins suggests](#) that doctor errors, including "unwarranted variation in physician practice patterns that lack accountability," were the third leading cause of death in the U.S. prior to COVID-19.

SB 2389 could exacerbate delays in patient care and increase administrative costs. AHIP is concerned that the proposed timelines in the legislation are arbitrary and could have the unintended consequences of increasing denials and unsafe treatments. We should instead be striving to achieve uniformity with existing

standards so that clinicians, patients, advocate organizations, and health insurance providers can have standard protocols for such reviews for most patients.

Health insurance providers already meet expedited and standard timeframes for prior authorization determinations for urgent and non-urgent care. AHIP is concerned that SB 2389 will lead to timeframes being arbitrarily rushed, which could lead to prior authorization requests being denied based on incomplete information from the patient's physician. Health care providers have a shared responsibility and delays in receiving the necessary information from providers hinder the ability of insurance providers to make determinations in a timely manner.

Moreover, the approach in SB 2389 could lead to inappropriate approvals that are not clinically justified and may result in patient harm, higher toxicity of treatment, or more invasive treatment for the patient than what may be medically necessary. There are many circumstances when a patient is on a treatment plan and health insurance providers need to check in with health care providers to see if the patient's treatment is effective and their goals are being achieved.

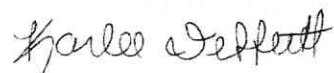
Health insurance providers are implementing innovative solutions to streamline processes, improve the quality of care, reduce costs, and enhance patients' overall care experience.

In 2018, AHIP and stakeholders representing providers and pharmacists developed a [Consensus Statement](#) recommending opportunities to improve the prior authorization process. Since then, health insurance providers have taken several [extensive steps](#) to improve the prior authorization for patients and providers alike, including increasing the adoption of electronic prior authorization (epic). In 2020, AHIP launched the [Fast Prior Authorization Technology Highway \(Fast PATH\)](#) initiative in 2020 to better understand the impact of ePA on improving the PA process, making health care more efficient and effective.

Health care experts and clinical leaders have also called for wider adoption of evidence-based guidelines. The mission of the [Choosing Wisely Initiative](#) – which was founded by physicians and clinicians – is to help inform patients and ensure that any test, treatment, drug or procedure is “supported by evidence, not duplicative of other tests procedures, free from harm, and truly necessary.” That is what prior authorization delivers.

For these reasons, AHIP respectfully requests that the Industry Business and Labor Committee not support SB 2389 as introduced. We appreciate the opportunity to provide feedback on the legislation and your consideration of our concerns.

Sincerely,



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