ISSUE

Ensure Physician Involvement in Utilization Review Denials

MMA Position

Given the high-stakes consequences to patient health of prior authorization (PA) or other utilization management denials/adverse determinations, physician involvement is essential. Legislation is needed to explicitly prevent health care companies or utilization review organizations (UROs) from using AI in adverse determinations.

Background

In the 2024 legislative session, the MMA led an initiative to severely limit the use of PA in Minnesota. Effective January 1, 2026, companies are prohibited from requiring repeated PA for the treatment of chronic conditions and prohibited from requiring PA for non-medication treatments for patients with cancer, outpatient mental health, and substance use disorder diagnoses. The legislation helps ensure timely access to care and treatment for patients and reduces the burden on physicians and their staff.

AI may be used during utilization review to efficiently process claims; however, AI which is largely unregulated and often lacking transparency, is unproven as a tool for making adverse determinations.

A recent lawsuit against United Healthcare alleges that an AI program developed by UnitedHealth subsidiary naviHealth, nH Predict, would supersede physician judgment, and has a 90% error rate. This means that nine of 10 adverse determinations that were appealed were ultimately reversed. In addition, more than one in four physicians (29%) report that PA has led to a serious adverse event for a patient in their care, and 61% of physicians report that they are concerned that AI increases/will increase PA denial rates.[1]

In another case (Kisting-Leung v. Cigna Corp.), court records indicate that over a period of two months in 2022, Cigna physicians denied more than 300,000 requests using "batch" AI reviews, spending an average of just 1.2 seconds reviewing each request.[2]

Talking Points

- Healthcare companies or UROs should not be allowed to use AI to make adverse determinations. These entites must be required to have a physician review the claim and determine whether an adverse determination is appropriate.

- Use of flawed or biased AI algorithms in denying prior authorization requests risks harming patient care and compounds administrative burden.

- PA can negatively impact patients, and lead to significant delays in care. Almost all PA denials that are appealed are ultimately approved. This significant waste of time and resources for providers ultimately leads to worse health outcomes for patients due to the delay in care.

- Increased usage of PA in recent years is one of the primary drivers of physician burnout.

- Health insurance companies should be allowed to use AI or similar technology to speed up the utilization review process, but it should not be used to deny or delay care.

- This proposal does not seek to regulate AI methods or processes, but rather to regulate when AI can be used in prior authorization processes. As such, this proposal does not conflict with the recent Executive Order from President Trump.[3]

References
1. Class action lawsuit against UnitedHealth's AI claim denials advances. https://www.healthcarefinancenews.com/news/class-action-lawsuit-against-unitedhealths-ai-claim-denials-advances
2. Sources of physician satisfaction and dissatisfaction and review of administrative tasks in ambulatory practice: A qualitative analysis of physician and staff interviews. https://www.ama-assn.org/files/corp/media-browser/public/ps2/ps2-dartmouth-study-111016.pdf
3. Executive Order. https://www.whitehouse.gov/presidential-actions/2025/12/eliminating-state-law-obstruction-of-national-artificial-intelligence-policy/