

FROM THE NAIC HEALTH CONSUMER REPRESENTATIVES

November 19, 2025

To: Commissioner Grace Arnold, Chair, and Joylynn Fix, Vice-Chair, of the Regulatory Framework (B) Task Force

RE: NAIC Consumer Representatives' Comments on the Revised Prior Authorization White Paper

On behalf of the undersigned Consumer Representatives to the National Association of Insurance Commissioners (NAIC), thank you for the opportunity to comment on the Task Force's revised white paper on prior authorization. We would once again like to applaud the Task Force for addressing the critical issue of prior authorization, and allowing for multiple opportunities to engage in this process.

Below are our comments on the revised white paper.

Comments on Red Line Revisions

- While we appreciate the sensitivities around tone that were brought up by many payers in the first round of comments, the revised definition section now lacks a key nuance that PA is not always used solely for patient safety and clinical purposes, but is also utilized for economic purposes.
- We appreciate inclusion of mental health and substance use disorder as an example of common treatments and services subject to PA in the processes section.
- In the consumer perspectives section we appreciate some of the revisions to the "higher costs in the long run" subsection and the addition of language on appeals.
- We feel the revisions to the appeals subsection of the consumer perspective removed some important suggestions around low knowledge levels and difficulty of appeals. One statistic we recommend adding is "According to the KFF Survey of Consumer Experiences with Health Insurance, 40% of insured adults know they have the right to appeal a coverage denial." <https://www.kff.org/affordable-care-act/kff-survey-of-consumer-experiences-with-health-insurance/>
- Also within the consumer section, the subsection on third parties involved in PA lacking regulation was not included in the revised draft; we feel this is important context within the broader utilization management ecosystem and encourage language be added in the white paper that addresses third-party challenges.
- The insurer perspectives section has additional language on the use of PA for patient safety; the cost impact if PA is eliminated entirely; and clarifications on the use of an evidence base in PA decisions and the accreditation standards. While we recognize the purpose of these revisions, we would also emphasize the real-world examples of clinical criteria and evidence not being utilized, and the cost in dollars and health consequences of overly burdensome PA.
- The insurer perspective section adds language on patient safety, giving specific statistics and examples of how PA can help prevent care that is not appropriate or not aligned with the latest clinical guidelines. We recommend language be added either here or in

the consumer perspective that reflects when this argument does not make sense or is inappropriately utilized. This is particularly true for chronic disease patients who have been stable on the same medication for a long period of time, yet are required to complete PA every year and sometimes every 6 months.

- In the solutions section, while the descriptor language within gold-carding was expanded to reflect exemptions, it appears the subsection on limitations and exemptions was taken out. Our suggestions in the first draft included specific state examples that we would encourage be added back in.
- We appreciate the addition of two subsections, one on reducing response times and one on ensuring qualifications of health plan benefit reviewers.
- We appreciate the expanded description of federal activities on PA, as we continue to believe aligning standards and processes across federal and state entities is crucial.
- We appreciate the addition of the example of NCOIL's model law and recommend updating this language to reflect its recent passage at the November NCOIL meeting.
- In our original cover letter we recommended the inclusion of a description of the solution and what problem it is trying to solve for each of these sections, as it will likely be difficult for readers to understand the common theme amongst the cited state examples or why these particular states have been chosen to be highlighted. We would like to reiterate this suggestion and offer any suggested language that would be helpful.

Next Steps at the NAIC

In our August letter we noted that the taskforce and workgroup structure of the NAIC is well positioned to provide a platform for regulators to engage in the takeaways outlined in the end of the paper. We would like to emphasize this again and re-iterate the next steps we recommended NAIC take to put the white paper into action:

Model Law Development

We urge the Task Force to utilize the findings from this white paper to initiate a new model law and regulation addressing prior authorization, including in the context of claims reviews, approvals, denials, and appeals. A model law will help states adopt uniform reforms to prior authorization practices in the overall context of claims assessment and support regulators in implementation and enforcement of the laws.

We would like to note that on November 13 the National Council of Insurance Legislators (NCOIL) adopted its model law on PA.

Enforcement and Implementation

We urge the creation of a new Working Group, similar to the newly adopted Pharmacy Benefit Management (D) Working Group, to give regulators a platform to discuss aligned enforcement and market oversight activities. One area this working group could focus on is the development of standards and guidelines for data collection on prior authorization as one part of the claims denial ecosystem. Standards would support states in collecting data that is uniform, specific, valid, and comparable across states.

The working group could also consider adopting examination standards, monitor and address market conduct trends across states, and provide a mechanism to facilitate conversation with federal agencies to ensure collaboration and reduce duplication. And perhaps most importantly, the working group could serve as a forum to share best practices, examination findings, and compliance issues encountered with regulating prior authorization practices.

In Conclusion

The consumer representatives remain grateful to the Task Force members and staff for their efforts in drafting the white paper. With increasing attention on the need to reform PA, federal rules going into effect over the next two years requiring more transparency around prior authorization, and the voluntary pledge from payers to participate in reform conversations, this is a critical time to ensure standards and processes are in place across all levels of government. This will ensure robust enforcement of prior authorization reforms and drive accountability amongst plans for how improper denials impact consumers. We stand at the ready to partner with you on this work moving forward.

Sincerely,

Anna Hyde
Kellan Baker
Carl Schmid
Anna Schwamlein Howard
Theresa Alban
Wayne Turner
Deborah Steinberg
Deborah Darcy
Lucy Culp
Joe Feldman
Bonnie Burns
Silvia Yee