

SUBSTITUTE FOR
SENATE BILL NO. 429

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2212c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2212C. (1) ON OR BEFORE JANUARY 1, 2013, THE COMMISSIONER
2 SHALL DEVELOP A STANDARD PRIOR AUTHORIZATION METHODOLOGY FOR USE BY
3 PRESCRIBERS TO REQUEST AND RECEIVE PRIOR AUTHORIZATION FROM AN
4 INSURER WHEN A POLICY, CERTIFICATE, OR CONTRACT REQUIRES PRIOR
5 AUTHORIZATION FOR PRESCRIPTION DRUG BENEFITS. THE COMMISSIONER
6 SHALL INCLUDE IN THE STANDARD PRIOR AUTHORIZATION METHODOLOGY THE
7 ABILITY FOR THE PRESCRIBER TO DESIGNATE THE PRIOR AUTHORIZATION
8 REQUEST FOR EXPEDITED REVIEW. IN ORDER TO DESIGNATE A PRIOR
9 AUTHORIZATION REQUEST FOR EXPEDITED REVIEW, THE PRESCRIBER SHALL
10 CERTIFY THAT APPLYING THE 15-DAY STANDARD REVIEW PERIOD MAY

1 SERIOUSLY JEOPARDIZE THE LIFE OR HEALTH OF THE PATIENT OR THE
2 PATIENT'S ABILITY TO REGAIN MAXIMUM FUNCTION.

3 (2) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,
4 THE COMMISSIONER SHALL APPOINT A WORKGROUP, THE MEMBERS OF WHICH
5 SHALL REPRESENT INSURERS, PRESCRIBERS, PHARMACISTS, HOSPITALS, AND
6 OTHER STAKEHOLDERS IN THE DEVELOPMENT OF A STANDARD PRIOR
7 AUTHORIZATION METHODOLOGY. THE WORKGROUP SHALL ASSIST IN THE
8 DEVELOPMENT OF THE STANDARD PRIOR AUTHORIZATION METHODOLOGY UNDER
9 SUBSECTION (1).

10 (3) IN DEVELOPING THE STANDARD PRIOR AUTHORIZATION METHODOLOGY
11 UNDER SUBSECTION (1), THE COMMISSIONER SHALL HOLD 1 OR MORE PUBLIC
12 HEARINGS TO GATHER INPUT FROM INTERESTED PARTIES. IN DEVELOPING THE
13 STANDARD PRIOR AUTHORIZATION METHODOLOGY UNDER SUBSECTION (1), THE
14 COMMISSIONER AND WORKGROUP SHALL CONSIDER ALL OF THE FOLLOWING:

15 (A) EXISTING AND POTENTIAL TECHNOLOGIES THAT COULD BE USED TO
16 TRANSMIT A STANDARD PRIOR AUTHORIZATION REQUEST.

17 (B) THE NATIONAL STANDARDS PERTAINING TO ELECTRONIC PRIOR
18 AUTHORIZATION DEVELOPED BY THE NATIONAL COUNCIL FOR PRESCRIPTION
19 DRUG PROGRAMS.

20 (C) ANY PRIOR AUTHORIZATION FORMS AND METHODOLOGIES USED IN
21 PILOT PROGRAMS IN THIS STATE.

22 (D) ANY PRIOR AUTHORIZATION FORMS AND METHODOLOGIES DEVELOPED
23 BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES.

24 (4) BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, AN
25 INSURER MAY SPECIFY IN WRITING THE MATERIALS AND INFORMATION
26 NECESSARY TO CONSTITUTE A PROPERLY COMPLETED STANDARD PRIOR
27 AUTHORIZATION REQUEST WHEN A POLICY, CERTIFICATE, OR CONTRACT

1 REQUIRES PRIOR AUTHORIZATION FOR PRESCRIPTION DRUG BENEFITS.

2 (5) IF THE COMMISSIONER DEVELOPS A PAPER FORM AS THE STANDARD
3 PRIOR AUTHORIZATION METHODOLOGY UNDER SUBSECTION (1), THE PAPER
4 FORM SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

5 (A) CONSIST OF NOT MORE THAN 2 PAGES. HOWEVER, AN INSURER MAY
6 REQUEST AND REQUIRE ADDITIONAL INFORMATION BEYOND THE 2-PAGE
7 LIMITATION OF THIS SUBDIVISION, IF THAT INFORMATION IS SPECIFIED IN
8 WRITING BY THE INSURER UNDER SUBSECTION (4). AS USED IN THIS
9 SUBDIVISION, "ADDITIONAL INFORMATION" INCLUDES, BUT IS NOT LIMITED
10 TO, ANY OF THE FOLLOWING:

11 (i) PATIENT CLINICAL INFORMATION INCLUDING, BUT NOT LIMITED TO,
12 DIAGNOSIS, CHART NOTES, LAB INFORMATION, AND GENETIC TESTS.

13 (ii) INFORMATION NECESSARY FOR APPROVAL OF THE PRIOR
14 AUTHORIZATION REQUEST UNDER PLAN CRITERIA.

15 (iii) DRUG SPECIFIC INFORMATION INCLUDING, BUT NOT LIMITED TO,
16 MEDICATION HISTORY, DURATION OF THERAPY, AND TREATMENT USE.

17 (B) BE ELECTRONICALLY AVAILABLE.

18 (C) BE ELECTRONICALLY TRANSMISSIBLE, INCLUDING, BUT NOT
19 LIMITED TO, TRANSMISSION BY FACSIMILE OR SIMILAR DEVICE.

20 (6) BEGINNING JULY 1, 2014, IF AN INSURER USES A PRIOR
21 AUTHORIZATION METHODOLOGY THAT UTILIZES AN INTERNET WEBPAGE,
22 INTERNET WEBPAGE PORTAL, OR SIMILAR ELECTRONIC, INTERNET, AND WEB-
23 BASED SYSTEM, THE PRIOR AUTHORIZATION METHODOLOGY DESCRIBED IN
24 SUBSECTION (5) DOES NOT APPLY. SUBSECTIONS (4), (8), AND (9) APPLY
25 TO A PRIOR AUTHORIZATION METHODOLOGY THAT UTILIZES AN INTERNET
26 WEBPAGE, INTERNET WEBPAGE PORTAL, OR SIMILAR ELECTRONIC, INTERNET,
27 AND WEB-BASED SYSTEM.

1 (7) BEGINNING JULY 1, 2014, EXCEPT AS OTHERWISE PROVIDED IN
2 SUBSECTION (6), AN INSURER SHALL USE THE STANDARD PRIOR
3 AUTHORIZATION METHODOLOGY DEVELOPED UNDER SUBSECTION (1) WHEN A
4 POLICY, CERTIFICATE, OR CONTRACT REQUIRES PRIOR AUTHORIZATION FOR
5 PRESCRIPTION DRUG BENEFITS.

6 (8) BEGINNING JANUARY 1, 2014, A PRIOR AUTHORIZATION REQUEST
7 THAT HAS NOT BEEN CERTIFIED FOR EXPEDITED REVIEW BY THE PRESCRIBER
8 IS CONSIDERED TO HAVE BEEN GRANTED BY THE INSURER IF THE INSURER
9 FAILS TO GRANT THE REQUEST, DENY THE REQUEST, OR REQUIRE ADDITIONAL
10 INFORMATION OF THE PRESCRIBER WITHIN 15 DAYS AFTER THE DATE AND
11 TIME OF SUBMISSION OF A STANDARD PRIOR AUTHORIZATION REQUEST UNDER
12 THIS SECTION. IF ADDITIONAL INFORMATION IS REQUESTED BY AN INSURER,
13 A PRIOR AUTHORIZATION REQUEST UNDER THIS SUBSECTION IS NOT
14 CONSIDERED GRANTED IF THE PRESCRIBER FAILS TO SUBMIT THE ADDITIONAL
15 INFORMATION WITHIN 15 DAYS AFTER THE DATE AND TIME OF THE ORIGINAL
16 SUBMISSION OF A PROPERLY COMPLETED STANDARD PRIOR AUTHORIZATION
17 REQUEST UNDER THIS SECTION. IF ADDITIONAL INFORMATION IS REQUESTED
18 BY AN INSURER, A PRIOR AUTHORIZATION REQUEST IS CONSIDERED TO HAVE
19 BEEN GRANTED BY THE INSURER IF THE INSURER FAILS TO GRANT THE
20 REQUEST, DENY THE REQUEST, OR OTHERWISE RESPOND TO THE REQUEST OF
21 THE PRESCRIBER WITHIN 15 DAYS AFTER THE DATE AND TIME OF SUBMISSION
22 OF THE ADDITIONAL INFORMATION. IF ADDITIONAL INFORMATION IS
23 REQUESTED BY AN INSURER, A PRIOR AUTHORIZATION REQUEST UNDER THIS
24 SUBSECTION IS CONSIDERED VOID IF THE PRESCRIBER FAILS TO SUBMIT THE
25 ADDITIONAL INFORMATION WITHIN 21 DAYS AFTER THE DATE AND TIME OF
26 THE ORIGINAL SUBMISSION OF A PROPERLY COMPLETED STANDARD PRIOR
27 AUTHORIZATION REQUEST UNDER THIS SECTION.

(9) BEGINNING JANUARY 1, 2014, A PRIOR AUTHORIZATION REQUEST THAT HAS BEEN CERTIFIED FOR EXPEDITED REVIEW BY THE PRESCRIBER IS CONSIDERED TO HAVE BEEN GRANTED BY THE INSURER IF THE INSURER FAILS TO GRANT THE REQUEST, DENY THE REQUEST, OR REQUIRE ADDITIONAL INFORMATION OF THE PRESCRIBER WITHIN 72 HOURS AFTER THE DATE AND TIME OF SUBMISSION OF A STANDARD PRIOR AUTHORIZATION REQUEST UNDER THIS SECTION. IF ADDITIONAL INFORMATION IS REQUESTED BY AN INSURER, A PRIOR AUTHORIZATION REQUEST UNDER THIS SUBSECTION IS NOT CONSIDERED GRANTED IF THE PRESCRIBER FAILS TO SUBMIT THE ADDITIONAL INFORMATION WITHIN 72 HOURS AFTER THE DATE AND TIME OF THE ORIGINAL SUBMISSION OF A PROPERLY COMPLETED STANDARD PRIOR AUTHORIZATION REQUEST UNDER THIS SECTION. IF ADDITIONAL INFORMATION IS REQUESTED BY AN INSURER, A PRIOR AUTHORIZATION REQUEST IS CONSIDERED TO HAVE BEEN GRANTED BY THE INSURER IF THE INSURER FAILS TO GRANT THE REQUEST, DENY THE REQUEST, OR OTHERWISE RESPOND TO THE REQUEST OF THE PRESCRIBER WITHIN 72 HOURS AFTER THE DATE AND TIME OF SUBMISSION OF THE ADDITIONAL INFORMATION. IF ADDITIONAL INFORMATION IS REQUESTED BY AN INSURER, A PRIOR AUTHORIZATION REQUEST UNDER THIS SUBSECTION IS CONSIDERED VOID IF THE PRESCRIBER FAILS TO SUBMIT THE ADDITIONAL INFORMATION WITHIN 5 DAYS AFTER THE DATE AND TIME OF THE ORIGINAL SUBMISSION OF A PROPERLY COMPLETED STANDARD PRIOR AUTHORIZATION REQUEST UNDER THIS SECTION.

(10) AS USED IN THIS SECTION:

(A) "INSURER" MEANS ANY OF THE FOLLOWING:

(i) AN INSURER ISSUING AN EXPENSE-INCURRED HOSPITAL, MEDICAL, OR SURGICAL POLICY OR CERTIFICATE.

(ii) A HEALTH MAINTENANCE ORGANIZATION.

1 (iii) A HEALTH CARE CORPORATION OPERATING PURSUANT TO THE
2 NONPROFIT HEALTH CARE CORPORATION REFORM ACT, 1980 PA 350, MCL
3 550.1101 TO 550.1704.

4 (iv) A THIRD PARTY ADMINISTRATOR OF PRESCRIPTION DRUG BENEFITS.

5 (B) "PRESCRIBER" MEANS THAT TERM AS DEFINED IN SECTION 17708
6 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17708.

7 (C) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN SECTION
8 17708 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.17708.

9 (D) "PRESCRIPTION DRUG BENEFIT" MEANS THE RIGHT TO HAVE A
10 PAYMENT MADE BY AN INSURER PURSUANT TO PRESCRIPTION DRUG COVERAGE
11 CONTAINED WITHIN A POLICY, CERTIFICATE, OR CONTRACT DELIVERED,
12 ISSUED FOR DELIVERY, OR RENEWED IN THIS STATE.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. 430 of the 96th Legislature is enacted into
15 law.