OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 130
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. K. Miller

Local Impact Statement Procedure Required: No

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Highlights

- The bill may minimally increase the Department of Insurance's administrative costs for monitoring and enforcing health insurers' compliance with its provisions. Any such costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill allows the Superintendent of Insurance to impose fines and penalties related to a series of violations of its provisions. Any fines and penalties collected would also be deposited into Fund 5540.
- The bill's provisions exempting providers from prior authorization requirements may result in higher expenditures and utilization for the Medicaid Program.
- The bill may lead to increased administrative costs for the Ohio Department of Medicaid (ODM) to administer, grant, and notify providers of their exemptions, and to engage in communication and appeal of any disputes which arise with health care providers regarding their exemptions or lack thereof. No direct fiscal effect on political subdivisions.

Detailed Analysis

Health insurers

The bill requires health insurers to allow exemptions from prior authorization requirements under certain conditions. Specifically, if a health insurer has a prior authorization requirement and the insurer approved at least 80% of the prior authorization requests submitted by a health care provider for a service, device, or drug during the most recent 12 months, the insurer must exempt the health care provider from prior authorization for that service, device, or drug for at least the next 12 months. The bill also specifies that an insurer is prohibited from requiring a health care provider to request an exemption from prior authorization. The bill requires an insurer to notify an applicable provider in writing, including specified information, when such exemption is granted. The bill also allows a health care provider that does not receive an exemption to request evidence for the insurer not granting an exemption, and sets guidelines for both the provider and the insurer in such a case.

The bill provides that an insurer may evaluate an exemption it has granted at the end of the 12-month exemption period, and specifies procedures for conducting such an evaluation and possible revocation of the exemption. The bill specifies that nothing in the bill must be construed as prohibiting a health insurer from making an administrative denial of a claim. The bill also requires health insurers to make prior authorization data available on their public websites and specifies the type of information that must be included in such data.

The bill specifies that a series of violations of its provisions that taken together constitute a practice or pattern must be considered an unfair and deceptive practice under the Consumer Sales Protection Law. The bill allows the Superintendent of Insurance to adopt necessary rules to implement its provisions. The bill applies to health insuring corporations (HICs) and sickness and accident insurers.

Fiscal effect

The bill may minimally increase the Department of Insurance's administrative costs for regulating health insurers and adopting necessary rules to implement the bill's provisions. Any increase in the Department's administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). The Superintendent of Insurance is also allowed to impose fines and penalties related to a series of violations of the bill's provisions.[1] Any fines and penalties collected would also be deposited into Fund 5540 and be used to offset such costs. The bill's provisions are not applied to self-insured government plans, and thus do not appear to affect the state's costs of providing health benefits to employees or their dependents. Similarly, the bill has no direct fiscal effect on political subdivisions.

The bill's provisions would likely increase HICs' and sickness and accident insurers' administrative costs by some uncertain amount. Generally, the bill may force changes to an insurer's administrative processes associated with its prior authorization requirements, which may affect administrative costs. Moreover, health insurers generally employ prior authorization requirements as a tool for controlling benefit claims costs. The bill places limits on the use of this tool. Thus, exemptions from prior authorization requirements may indirectly increase utilization of services, devices, or drugs, which may potentially increase benefit claims costs. If insurers' costs increase significantly, some portion of such costs may be passed through to enrollees and plan sponsors that contract with such insurers, e.g., local government health plans. To the extent that local government plans are self-insured, or use an insurance policy that does not impose prior authorization requirements, costs for the local government would be unaffected. Because the state's health benefit plans are self-insured, the bill does not appear to affect state costs for providing health insurance to employees and their dependents.

[1] As specified under existing law (R.C. 3901.22, not in the bill). Such penalties may include an assessment for half the Department's costs of any investigation and hearing related to an unfair or deceptive act, up to $100,000, or a penalty of up to $3,500 per violation but no more than $35,000 in any six-month period.

Department of Medicaid

The bill requires the Ohio Department of Medicaid (ODM) to follow the same standards set for health insurers regarding granting exemptions to prior authorization requirements for a given health care provider when in the prior 12 months that provider has had at least an 80% approval rate for their prior authorization requests for a service, device, or drug. This exemption must last for at least 12 months, and can be reevaluated by ODM on an annual basis thereafter.

Fiscal effect

The bill's provisions may lead to increased administrative costs for ODM to administer, grant, and notify providers of their exemptions, and to engage in communication and appeal of any disputes which arise with health care providers regarding their exemptions or lack thereof. Service expenditures for the Department are also expected to increase, as the bill's changes lead to increases in coverage of services, devices, or drugs for patients who would not have received prior authorization or coverage for these items prior to the changes made by the bill.

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