Chapter 747

(House Bill 820)

AN ACT concerning

Health Insurance – Utilization Review – Use of Artificial Intelligence

FOR the purpose of requiring that certain carriers, pharmacy benefits managers, and private review agents ensure that artificial intelligence, algorithm, or other software tools are used in a certain manner when used for conducting utilization review; and generally relating to utilization review and artificial intelligence.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–10A–06
Annotated Code of Maryland
(2017 Replacement Volume and 2024 Supplement)

BY adding to
Article – Insurance
Section 15–10B–05.1
Annotated Code of Maryland
(2017 Replacement Volume and 2024 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

15–10A–06.

(a) On a quarterly basis, each carrier shall submit to the Commissioner, on the form the Commissioner requires, a report that describes:

(1) the number of members entitled to health care benefits under a policy, plan, or certificate issued or delivered in the State by the carrier;

(2) the number of clean claims for reimbursement processed by the carrier;

(3) the activities of the carrier under this subtitle, including:

(i) the outcome of each grievance filed with the carrier;

(ii) the number and outcomes of cases that were considered emergency cases under § 15–10A–02(b)(2)(i) of this subtitle;

(iii)   the time within which the carrier made a grievance decision on each emergency case;

(iv)   the time within which the carrier made a grievance decision on all other cases that were not considered emergency cases;

(v)   the number of grievances filed with the carrier that resulted from an adverse decision involving length of stay for inpatient hospitalization as related to the medical procedure involved;

(vi)   the number of adverse decisions issued by the carrier under § 15–10A–02(f) of this subtitle, whether the adverse decision involved a prior authorization or step therapy protocol, **[**and**]** the type of service at issue in the adverse decisions**, AND WHETHER AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL WAS USED IN MAKING THE ADVERSE DECISION**;

(vii)   the number of adverse decisions overturned after a reconsideration request under § 15–10B–06 of this title; and

(viii)   the number of requests made and granted under § 15–831(c)(1) and (2) of this title; and

(4)   the number and outcome of all other cases that are not subject to activities of the carrier under this subtitle that resulted from an adverse decision involving the length of stay for inpatient hospitalization as related to the medical procedure involved.

(b)   The Commissioner shall:

(1)   compile an annual summary report based on the information provided:

(i)   under subsection (a) of this section; and

(ii)   by the Secretary under § 19–705.2(e) of the Health – General Article;

(2)   report any violations or actions taken under § 15–10B–11 of this title; and

(3)   provide copies of the summary report to the Governor and, subject to § 2–1257 of the State Government Article, to the General Assembly.

15–10B–05.1.

(A)   (1)   IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2)   "ARTIFICIAL INTELLIGENCE" MEANS AN ENGINEERED OR MACHINE–BASED SYSTEM THAT VARIES IN ITS LEVEL OF AUTONOMY AND THAT CAN, FOR EXPLICIT OR IMPLICIT OBJECTIVES, INFER FROM THE INPUT IT RECEIVES HOW TO GENERATE OUTPUTS THAT CAN INFLUENCE PHYSICAL OR VIRTUAL ENVIRONMENTS.

(3)   "CARRIER" MEANS:

(I)   AN INSURER;

(II)   A NONPROFIT HEALTH SERVICE PLAN;

(III)   A HEALTH MAINTENANCE ORGANIZATION;

(IV)   A DENTAL PLAN ORGANIZATION; OR

(V)   ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS SUBJECT TO REGULATION BY THE STATE.

(B)   THIS SECTION APPLIES TO:

(1)   A CARRIER THAT:

(I)   USES AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL FOR THE PURPOSE OF UTILIZATION REVIEW; OR

(II)   CONTRACTS WITH OR OTHERWISE WORKS THROUGH AN ENTITY THAT USES AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL FOR THE PURPOSE OF UTILIZATION REVIEW; AND

(2)   A PHARMACY BENEFITS MANAGER OR PRIVATE REVIEW AGENT THAT:

(I)   CONTRACTS WITH A CARRIER TO PROVIDE UTILIZATION REVIEW ON BEHALF OF THE CARRIER; AND

(II)   USES AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL FOR THE PURPOSE OF CONDUCTING UTILIZATION REVIEW ON BEHALF OF THE CARRIER.

(C)   SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN ENTITY SUBJECT TO THIS SECTION SHALL ENSURE THAT:

(1)   AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL BASES ITS DETERMINATIONS ON:

(I)   AN ENROLLEE'S MEDICAL OR OTHER CLINICAL HISTORY;

(II)   INDIVIDUAL CLINICAL CIRCUMSTANCES AS PRESENTED BY A REQUESTING PROVIDER; OR

(III)   OTHER RELEVANT CLINICAL INFORMATION CONTAINED IN THE ENROLLEE'S MEDICAL OR OTHER CLINICAL RECORD;

(2)   AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL DOES NOT BASE ITS DETERMINATIONS SOLELY ON A GROUP DATASET;

(3)   THE CRITERIA AND GUIDELINES FOR USING AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL FOR MAKING DETERMINATIONS COMPLY WITH THE REQUIREMENTS OF THIS TITLE;

(4)   AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL DOES NOT REPLACE THE ROLE OF A HEALTH CARE PROVIDER IN THE DETERMINATION PROCESS UNDER § 15–10B–07 OF THIS SUBTITLE;

(5)   THE USE OF AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL DOES NOT RESULT IN UNFAIR DISCRIMINATION ~~AGAINST ENROLLEES THAT IS PROHIBITED BY FEDERAL OR STATE LAW~~;

(6)   AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL IS FAIRLY AND EQUITABLY APPLIED, INCLUDING IN ACCORDANCE WITH ANY APPLICABLE REGULATIONS AND GUIDANCE ISSUED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES;

(7)   AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL IS OPEN TO INSPECTION FOR AUDIT OR COMPLIANCE REVIEWS BY THE COMMISSIONER;

(8)   WRITTEN POLICIES AND PROCEDURES ARE INCLUDED IN THE UTILIZATION PLAN SUBMITTED UNDER § 15–10B–05 OF THIS SUBTITLE, INCLUDING HOW AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL WILL BE USED AND WHAT OVERSIGHT WILL BE PROVIDED;

(9)   THE PERFORMANCE, USE, AND OUTCOMES OF AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL ARE REVIEWED AND

REVISED, IF NECESSARY AND AT LEAST ON A QUARTERLY BASIS, TO MAXIMIZE ACCURACY AND RELIABILITY;

       (10) PATIENT DATA IS NOT USED BEYOND ITS INTENDED AND STATED PURPOSE, CONSISTENT WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, AS APPLICABLE; AND

       (11) AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL DOES NOT DIRECTLY OR INDIRECTLY CAUSE HARM TO AN ENROLLEE.

       (D) AN ARTIFICIAL INTELLIGENCE, ALGORITHM, OR OTHER SOFTWARE TOOL MAY NOT DENY, DELAY OR MODIFY HEALTH CARE SERVICES.

       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.

Approved by the Governor, May 20, 2025.