



**DATE:** April 21, 2022

**TO:** Commissioners

**FROM:** David Sharp  
Director, Center for Health Information Technology & Innovative Care Delivery

**SUBJECT:** Draft Amendments to COMAR 10.25.17: *Benchmarks for Preauthorization of Health Care Services – Informal Comment*

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## Overview

Staff proposes to release to the public for informal comment draft amendments to COMAR 10.25.17: *Benchmarks for Preauthorization of Health Care Services*. Health-General Article § 19-108.2 (2012) required the Commission to work with State-regulated insurers, nonprofit health service plans, health maintenance organizations, and pharmacy benefit managers (collectively, “payors”) to implement, in a phased approach, electronic preauthorization<sup>1</sup> processes in a series of four benchmarks.<sup>2</sup> Payors required to comply with the law have implemented all four benchmarks. The law gives MHCC authority to adopt regulations to establish a process by which a payor may be waived from attaining one or more of the benchmarks for extenuating circumstances.<sup>3, 4</sup>

The draft amendments modify the length of time a waiver is valid from two to five years and require a payor that is granted a waiver to notify the Executive Director within 30-days after the payor can no longer demonstrate extenuating circumstances. In addition, the draft amendments clarify processes for the withdrawal of a waiver, remove the past compliance date for the fourth benchmark, and make other non-technical miscellaneous changes.

## Staff Recommendation

Staff requests the Commission approve the draft amendments to COMAR 10.25.17: *Benchmarks for Preauthorization of Health Care Services* for an informal public comment period of three weeks.

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<sup>1</sup> Preauthorization is required before certain medical services can be rendered or certain pharmaceuticals dispensed for reasons such as the availability of low-cost generic alternatives, age restrictions, or prescribing higher than normal dosages.

<sup>2</sup> The four benchmarks were: (1) by October 1, 2012, provide online access to a listing of all medical services and pharmaceuticals that require preauthorization and the key criteria for making a preauthorization determination; (2) by March 1, 2013, establish an online system to receive preauthorization requests electronically and assign a unique identification number to each request for tracking purposes; (3) by July 1, 2013, ensure that all electronic preauthorization requests for pharmaceuticals are approved in real-time or within one business day of receiving all pertinent information, and for non-urgent medical services, within two business days of receiving all pertinent information; (4) by July 1, 2015 establish a process that allows health care providers to override a step therapy or fail-first protocol when submitting an electronic pharmaceutical preauthorization request.

<sup>3</sup> Circumstances include premium volume less than \$1,000,000 annually in the State; a group model health maintenance organization; or other circumstances determined by the Commission.

<sup>4</sup> There are currently eight payors who are in waiver status.