

# UTILIZATION MISMANAGEMENT:

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Assessing Compliance with Step Therapy and  
Prior Authorization Laws in Select States



January 2020

Survey Findings from Illinois

 **AIMED ALLIANCE**

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# I. Introduction

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Over the past four years, Illinois lawmakers have enacted laws to protect health care consumers against unreasonable step therapy and prior authorization policies. This report presents the findings of a survey commissioned by Aimed Alliance to assess compliance with these new laws by health plans and the degree to which the laws are being enforced by state regulatory agencies.

## A. Overview of Step Therapy

Step therapy policies require insured individuals to try and fail on alternative treatments specified by a health plan, sometimes with adverse effects, before the health plan will cover the prescribed treatment.<sup>1</sup> Due to rising health care costs, health plans often use step therapy as a cost-containment technique. When step therapy is used appropriately, it can steer patients towards less risky and lower cost treatments as first-line treatment options.<sup>2</sup> However, some step therapy policies are inconsistent with sound scientific and clinical evidence, require patients to try and fail on the same treatment multiple times, and do not have adequate exceptions processes in which a practitioner can submit a request to the health plan to override the step therapy protocol.<sup>3</sup> In such instances, step therapy can interfere with the practitioner-patient relationship, cause care delays that interrupt disease stability, and result in disease progression and relapse thereby increasing health care utilization.<sup>4</sup>

In January 2018, Illinois's step therapy law went into effect.<sup>5</sup> This law requires health plans to grant a step therapy exception request if the health plan's required treatment is contraindicated, the patient has already tried and failed on the required drug, or if the patient is stable on a different treatment.<sup>6</sup> The law requires health plans to honor step therapy exceptions for 12 months.<sup>7</sup> The health plan must grant an exception request within 24 hours in emergency situations and within 72 hours in non-emergency situations.<sup>8</sup> If the plan fails to provide a response within the given timeframe, the request is automatically deemed approved.<sup>9</sup> Illinois's step therapy law applies to all insurers licensed to sell individual or group health insurance policies in the state.<sup>10</sup>

## B. Prior Authorization

Prior authorization policies require a health care provider or an insured individual to obtain approval from the health plan before the plan will cover the cost of a health care product or service.<sup>11</sup> Prior authorization is often used by health plans as a cost-containment measure intended to prevent health care professionals from prescribing high-cost treatments and services that are not medically necessary.<sup>12</sup> However, prior authorization standards can be inconsistent with medical standards of care.<sup>13</sup> Additionally, health plans sometimes use outmoded methods of communication when accepting requests for prior authorization, such as fax or mail, which can be unreliable. Plans may also take several days, or even weeks, before responding to a prior authorization request.<sup>14</sup> When prior authorization is used inappropriately, it can cause care delays that prevent patients from accessing medically necessary treatments and services when they are needed.<sup>15</sup> These care delays can cause disease progression and relapse that can result in increased health care utilization.<sup>16</sup>

On January 1, 2015, Illinois's prior authorization law went into effect.<sup>17</sup> The law requires health plans to respond to a prior authorization request for a prescription drug within 72 hours of receipt of request or within 24 hours in expedited situations.<sup>18</sup> It also prohibits health plans from requiring prior authorization for emergency services.<sup>19</sup> Illinois's prior authorization law applies to health maintenance organizations, managed care communities, exchange plans, and accountable care entities.<sup>20</sup>

### C. Scope of the Survey and This Report

While these laws have advanced strong protections for consumers, those protections are ineffective if health plans are not complying with the laws. Aimed Alliance commissioned a survey of health care providers practicing in Illinois to understand whether the step therapy exception and prior authorization request processes have become easier since the enactment of the laws. The information was used to assess whether health plans are complying with step therapy and prior authorization requirements following the laws' enactment and whether state regulatory agencies are taking steps to enforce the laws against noncompliant health plans.

## II. Methodology

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Aimed Alliance commissioned a global public affairs firm, InVeritas, to conduct a digital survey of health care professionals in Illinois. The survey was distributed to health care professionals through email, and 117 completed the survey fully. Internal screening questions included whether recipients were familiar with the process for filing insurance claims and whether they accept various types of insurance. Of the health care professionals who completed the survey, 64 percent were physicians and 28 percent were nurses. The remaining 8 percent were other types of health care professionals, including physician assistants, medical technicians, and managers and administrators of medical offices. The vast majority of the survey respondents (95 percent) have five or more years of experience in the medical profession. The survey examined health care professionals' experiences with prior authorization and step therapy policies following the recent enactment of laws that regulate the use of these policies. Based on the findings of the survey, Aimed Alliance identified several shortcomings in the compliance and enforcement of the prior authorization and step therapy laws.

# III. Findings from the Survey

## A. Step Therapy

Most respondents do not believe that the recent changes have improved patients' ability to access their medications.

Only 22 percent of respondents "somewhat" or "strongly" agree that recent legal changes governing step therapy have improved patients' ability to access medications, while 58 percent "somewhat" or "strongly" disagree with that statement.



A majority of respondents do not believe that the recent changes in law have improved the process for requesting a step therapy exception.

Less than a quarter of respondents (20 percent) believe that the process for submitting requests for step therapy exceptions is easier now than it was before the law went into effect, and only 15 percent of respondents believe that administrative tasks related to obtaining a step therapy exception take less time. Only 14 percent of respondents believe that administrative paperwork takes less time.

Most respondents believe that recent changes in the law have not improved the likelihood of obtaining a step therapy exception.

Illinois requires health plans to grant a step therapy exception request if the health plan's required treatment is contraindicated, the patient has already tried and failed on the required drug, or if the patient is stable on a different treatment. Almost three-fourths of respondents (69 percent) indicated that they have asked for step therapy exceptions on behalf of their patients.

Many respondents (40 percent) believe that the changes in the law have not led to any significant difference in whether insurers approve exception requests, and 37 percent of respondents believe that insurers are less likely to approve the requests.

Health plans are meeting step therapy exception request deadlines only half of the time, and recent changes in the law have not impacted the frequency of denials.

Illinois law requires health plans to grant a step therapy exception request within 24 hours of receiving it in emergency situations and within 72 hours of receiving it in non-emergency situations. If the plan fails to provide a response within the given timeframe, the request is automatically deemed approved. Half of survey respondents (51 percent) indicated that insurers have been responding to requests within the legally required time limits "every time" or "most times," while 49 percent say that insurers are meeting the deadlines "occasionally" or "almost never."

Almost half of surveyed health care professionals (48 percent) do not believe that the new law has made a significant difference in the frequency of denials for step therapy exceptions, while 29 percent of survey respondents believe that denials are more frequent.

Despite recent changes in the law, health plans require patients to try and fail on the same drug more than once as part of a step therapy protocol and are requiring step therapy for patients who are currently stable on a different treatment.

Illinois law requires health plans to grant a step therapy exception request if the patient has already tried and failed on the required drug or if the patient is stable on a different treatment. More than half of survey respondents (58 percent) indicated that insurers require step therapy for patients who are stable on a different treatment "every time" or "most times," while 42 percent of respondents say that this occurs "occasionally" or "almost never." Additionally, 53 percent indicated that patients are required to try and fail on the same medication more than once "every time" or "most times," while 47 percent of respondents say this happens "occasionally" or "almost never."

#### A. Prior Authorization

Changes in prior authorization law have had little impact on patients' ability to access medications.

Only 28 percent of survey respondents believe that changes in the prior authorization law have improved patients' ability to access medications, while 53 percent of respondents disagree.

A majority of respondents feel that changes in the law have not improved the prior authorization approval process and that the amount of time spent on administrative tasks and paperwork has increased.



Many Illinois health care professionals feel that changes in the law have not provided relief from burdensome administrative requirements. For example, 55 percent of survey respondents do not believe that prior authorization paperwork has been simplified, and only 19 percent of survey respondents believe that the process for submitting a request for prior authorization approval is now easier. Only 16 percent believe that administrative tasks related to obtaining a prior authorization approval take less time, and only 15 percent of survey respondents believe that completing administrative paperwork related to obtaining a prior authorization approval takes less time.

Despite changes in the law, health plans are requiring prior authorization for emergency services.

Illinois law prohibits health plans from requiring prior authorization for emergency services. Nevertheless, 33 percent of survey respondents indicated that insurers have required prior authorization in emergency situations “every time” or “most of the time.”



Health plans are not consistently meeting the deadlines for acting on prior authorization requests.

Illinois law requires health plans to respond to a prior authorization request for a prescription drug within 72 hours of receipt of the request or within 24 hours in expedited situations. Despite this, only nine percent of survey respondents indicated that health plans are acting on prior authorization requests within the required timeframe “every time.” Just over one-third of survey respondents (36 percent) indicated that health plans are acting on prior authorization requests within three business days “most times,” and 46 percent of survey respondents indicated that health plans “occasionally” act on prior authorization requests within three business days.

Many respondents believe that frequency of prior authorization denials has not changed.

Forty-four percent of respondents do not believe that their prior authorization requests have been denied more or less frequently since the law was changed. However, 32 percent indicated that denials have become more frequent, while 24 percent claim that denials have been less frequent.

While a majority of survey respondents appeal coverage denials, a significant portion of them simply write a prescription for a different medication.

When a request for prior authorization or a request for a step therapy exception is denied, 59 percent of survey respondents indicated they appeal the denial, while 38 percent say they write a prescription for a different medication.

Of those who appeal coverage denials, most are at least somewhat successful.

When denials are appealed, 77 percent of survey respondents indicated that their appeals are successful either “sometimes” or “most times.” Only six percent of survey respondents indicated that their appeals are “never” successful.

The vast majority of survey respondents do not seek enforcement from the state when insurers refuse a request for appeal.

Only seven percent of respondents say they have filed complaints with the state’s insurance commissioner or attorney general when appeals are denied, while 93 percent have not.

Health care practitioners believe that the state is generally not doing enough to enforce the law.

Over one-third of survey respondents, 38 percent, think the state is “doing some things but could be doing more,” while 44 percent of survey respondents believe that the state is “not doing nearly enough to enforce the law.”



## IV. Conclusion

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In passing step therapy and prior authorization laws, Illinois lawmakers added important protections for health care consumers intended to ensure timely access to appropriate treatments. Our report found that, while some practitioners believe that these laws have reduced administrative waste and improved access to care, there is still room for improvement. Additionally, our report identified several areas in which plans may not be complying with the laws.

In efforts to ensure that health plans are complying with Illinois's step therapy and prior authorization laws, practitioners should help their patients by seeking exceptions, going through the appeals process, and filing complaints when health plans' actions are inconsistent with the law. Additionally, patient advocacy groups can empower patients to speak up and ask their practitioners for assistance to get access to medically necessary treatments if their practitioners are reluctant to go through the exception or appeals processes. Patients can also be encouraged to file complaints if plans deny access to care in violation of state law. In taking these steps, health care stakeholders can improve patient access to medically necessary care and reduce barriers that can negatively impact patient health.

## V. About Aimerd Alliance

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Aimerd Alliance is a 501(c)(3) non-profit health policy organization that seeks to protect and enhance the rights of health care consumers and providers. To advance its mission, Aimerd Alliance conducts legal research and analysis; develops sound, patient-centered recommendations; and disseminates its findings to inform policy makers and increase public awareness. To learn more about Aimerd Alliance, go to [www.aimerdalliance.org](http://www.aimerdalliance.org).

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# VI. Endnotes

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