

UTILIZATION MISMANAGEMENT:

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



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Survey Findings from Texas

 **AIMED ALLIANCE**

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I. Introduction

Texas lawmakers have recently 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.¹ 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.² 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 process.³ 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.⁴

In September 2017, Texas's step therapy law went into effect.⁵ The law requires health plans to base their step therapy protocols on high-quality studies, research, and medical practice.⁶ A health plan must grant a step therapy exception request if the health plan's required treatment is expected to be ineffective, the patient already tried and failed on the required treatment, the required treatment is not in the best interest of the patient, or the patient is currently stable on a different treatment.⁷ The health plan must grant the exception request within 24 hours in urgent situations and within 72 hours in nonurgent situations.⁸ If the health plan fails to respond within the required timeframe, the request is automatically deemed approved.⁹ Texas's step therapy law applies to individual, group, blanket, or franchise insurance policies offered by a commercial insurer, an exchange plan, a health maintenance organization, a group hospital service corporation, a fraternal benefit society, a stipulated premium company, a reciprocal exchange, a multiple employer welfare arrangement, and certain non-profit health corporations.¹⁰

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.¹¹ Prior authorization is often used by health plans as a cost-containment measure intended to prevent health care professionals from erroneously prescribing high-cost treatments and services that are not medically necessary.¹² However, prior authorization standards can be inconsistent with medical standards of care.¹³ 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.¹⁴ 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.¹⁵ These care delays can cause disease progression and relapse that can result in increased health care utilization.¹⁶

In September 2015, Texas's prior authorization law went into effect.¹⁷ Health plans are required to use a standardized prior authorization form, accept prior authorization requests electronically, and post their prior authorization requirements online.¹⁸ Health plans must provide 60 days advance notice to enrollees before they may implement changes to their prior authorization requirements.¹⁹

The law requires health plans to act on a prior authorization request within 24 hours or three calendar days, depending on the type of plan and service requested.²⁰ Texas's prior authorization law applies to individual, group, blanket, or franchise insurance policies offered by a commercial insurer, an exchange plan, a health maintenance organization, a group hospital service corporation, a fraternal benefit society, a stipulated premium company, a reciprocal exchange, a multiple employer welfare arrangement, and certain non-profit health corporations.²¹

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 Texas to understand whether the step therapy exception and prior authorization request processes have become easier since the enactment of the laws. Such information was obtained 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

Aimed Alliance commissioned a global public affairs firm, InVeritas, to conduct a digital survey of health care professionals in Texas. The survey was distributed to health care professionals through email, and 65 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, 42 percent were physicians and 47 percent were nurses. The remaining 11 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 (86 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 compliance with and enforcement of prior authorization and step therapy laws.

III. Findings from the Survey

A. Step Therapy

Half of respondents do not believe that the step therapy law has improved patients' ability to access medications.

Fifty-one percent of respondents feel that the recent legal changes governing step therapy have not improved patients' ability to access medications.



Roughly half of respondents say that changes in the law have neither improved the process for requesting a step therapy exception nor shortened the amount of time spent on administrative tasks and paperwork.

Just under half of respondents (46 percent) disagree that the process for requesting a step therapy exception is easier than before the recently enacted law was passed. Additionally, 51 percent of respondents do not believe that administrative tasks related to obtain a step therapy exception take less time, and 49 percent do not believe that the administrative paperwork takes less time.

Most respondents do not believe that changes in the law have made it easier to request a step therapy exception.

A majority of respondents (60 percent) indicated that they have had to ask for an exception to step therapy for their patients. More than half of respondents (77 percent) say the changes in the law either have made the process to request an exception more difficult or have not made a difference.

More than half of survey respondents (51 percent) believe the changes in the law have not led to any significant difference in whether insurers approve exception requests. Only 17 percent believe that insurers are more likely to approve the requests.

Health plans are meeting step therapy exception request deadlines most of the time, and changes in the law have made denials somewhat less frequent.

Texas's step therapy law requires health plans to act on a step therapy exception request within 24 hours in urgent situations and within 72 hours in nonurgent situations. If the health plan fails to respond within the required timeframe, the request is automatically deemed approved. Most survey respondents (57 percent) indicated that insurers have been responding to requests within the legally required time limits "every time" or "most times," while 43 percent say that insurers are meeting the deadlines "occasionally" or "almost never."

A majority of respondents (60 percent) do not believe the law has made a significant difference in the frequency of denials for step therapy exceptions.

Despite changes to the law, health plans often require patients to try and fail on the same treatment multiple times and often require step therapy for patients who are currently stable on a different treatment.

Texas's step therapy law requires health plans to approve an exception request if the plan's required treatment is expected to be ineffective, the patient already tried and failed on the required treatment, the required treatment is not in the best interest of the patient, or the patient is currently stable on a different treatment. Despite these requirements, almost half of respondents (40 percent) indicate that patients are required to try and fail on the same medication more than once "every time" or "most times." Most survey respondents (55 percent) indicate that health plans require step therapy for a patient who is currently stable on a different treatment "every time" or "most times."

B. Prior Authorization

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

Thirty-five percent of survey respondents agree that changes in the law have improved patients' ability to access medications, while 46 percent of respondents disagree.

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



Many Texas health care professionals feel that changes in the law have not provided relief from burdensome administrative requirements. For example, 71 percent of respondents believe that either the paperwork for the prior authorization process has not been simplified or there was no difference. Additionally, 46 percent of survey respondents do not believe that the process for submitting a request for prior authorization approval is now easier, and 26 percent of survey respondents reported no difference. Only 20 percent of respondents believe that administrative tasks related to obtaining a prior authorization approval take less time. Additionally, only 20 percent of survey respondents believe that completing administrative paperwork related to obtaining a prior authorization approval takes less time.

Most plans accept a standardized prior authorization form and accept prior authorization requests electronically.

Texas requires health plans to use a standardized prior authorization form, to accept electronic prior authorization requests, and to post their prior authorization requirements online. Consistent with the law, 94 percent of survey respondents indicate that health plans accept a standardized prior authorization form, and 79 percent of respondents indicate that health plans accept forms electronically.

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

Texas requires health plans to act on a prior authorization request within 24 hours or three calendar days, depending on the type of plan and service requested. Despite this requirement, only eight percent of survey respondents indicated that health plans are acting on prior authorization requests within three calendar days “every time.” However, almost half of survey respondents (48 percent) indicated that health plans are acting on prior authorization requests within three calendar days “most times.”



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

As with step therapy, 55 percent of respondents do not believe that their prior authorization requests have been denied more or less frequently since the law was changed. However, 28 percent claim that denials have been less frequent.

C. Appeals and Complaints

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

When a prior authorization request or a request for a step therapy exception is denied, 66 percent of survey respondents indicated that they appeal the denial, while 32 percent say they write a prescription for a different medication.

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

When prior authorization denials are appealed, 85 percent of survey respondents indicated that their appeals are successful “most times” or “sometimes.” Only three 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 eight percent of respondents say they have filed complaints with the state’s insurance commissioner or attorney general when appeals are denied, while 92 percent have not.

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

A majority of survey respondents (51 percent) think the state is “doing some things but could be doing more” to enforce step therapy and prior authorization laws, while 22 percent of survey respondents believe that the state is “not doing nearly enough to enforce the law.”

IV. Conclusion

In passing step therapy and prior authorization laws, Texas 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 Texas'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

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.

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VI. Endnotes

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