

GOLD CARD LAW ANALYSIS

2019-2022

Prior authorization is a benefit utilization policy that requires health care providers or insurance plan enrollees to obtain approval from their insurer or pharmacy benefit manager before the health plan will cover the cost of the prescribed health care product or service.¹ Without proper guardrails, this practice can delay access to life-saving treatments and increase administrative burdens for physicians.² State legislatures have recognized the need for prior authorization reforms and have passed laws creating guardrails on prior authorizations, such as imposing time requirements on insurers for prior authorization reviews,³ prohibiting retrospective denials,⁴ and requiring the use of standardized paperwork.⁵ Despite these efforts, prior authorization policies continue to delay access to necessary treatments for patients and impose unnecessary administrative burdens on providers. As a result, states are starting to introduce “gold card” laws to help alleviate prior authorization burdens on providers.⁶ Typically, under a gold card law, providers are exempt from completing the prior authorization process for a treatment or service if the provider has successfully received prior authorization approvals for between 80 to 100 percent of their previous prior authorization requests within a specified period.⁷

Gold card bills are becoming more common, with at least nine states having introduced gold card bills in 2022.⁸ Currently, little analysis exists on state adoptions and proposals of gold card laws. Therefore, to prepare advocacy organizations, patients, and providers for 2023, Aimerd Alliance has developed the below resource which reviews the scope of enacted and proposed gold card laws from 2019 to 2022.



ENACTED GOLD CARD LAWS

YEAR	STATE	PLANS COVERED	INCLUDES RX DRUGS	HOW TO QUALIFY	LENGTH OF STATUS	NOTIFICATION OF APPROVAL	BILL SPONSORS	STATUS
2022	Louisiana (SB.112)	All state-regulated health insurers authorized to do business in the state.	No	Health insurers are currently developing how each gold-card program will work. Insurers are required to submit their proposed policy to the Dept. of Insurance by Jul. 1, 2023. ⁽¹⁾	Defers to each health insurer	Defers to each health insurer.	Senator Robert Mills	Passed Effective Jun. 6, 2022
2021	Texas (HB.3459)	All state-regulated health insurers authorized to do business in the state. Exception: Does not apply to Texas Children Health Insurance Program or state Medicaid program.	Yes	Providers must have at least 90% approval of prior authorization requests within the last six months for a particular service. Providers must have at least five prior authorization requests to be eligible for consideration.	At least six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of their qualification. Notification must also include a list of qualified exempted services and the duration of the exemption.	Representatives Greg Bonnen and Penny Morales Shaw and Senator Dawn Buckingham	Passed Effective Sept. 1, 2022
2020	Vermont (H.960)	All state-regulated health insurers with more than 1,000 covered lives for major medical health insurance.	Yes	Pilot Program: Automatically exempts providers from prior authorization protocols or streamlines certain prior authorization requirements for participating health care providers. Program defers to each health insurer for provider eligibility requirements.	Six months	Automatically applies.	House Health Care Committee	Passed Completed by Jan. 15, 2023 ⁽²⁾
2019	West Virginia (HB.2351)	Any medical indemnity plan, managed care plan option, or group life insurance plan offered by the Public Employees Insurance Agency.	No	Providers must have received a 100% approval rating in the last six months. Provider must have at least 30 prior authorization requests for procedures performed each year.	Six months	Automatically applies. Health insurers must provide notice to each exempted provider.	Delegates Joe Ellington, Jordan Hill, Matthew Rohrbach, Ruth Rowan Amy Summers, Cody Thompson, Danielle Walker, Margaret Staggers, Martin Atkinson, and Michael Angelucci	Passed Effective: Jan. 1, 2020

(1) Submission must include a full narrative description, the criteria for participation, a listing of the procedures and services subject to selective application of prior authorization, and the number of healthcare providers participating in the program.
 (2) By January 15, 2023, health insurers are required to submit reports to the House Committee on Health Care, the Senate Committee on Health and Welfare and Finance, and the Green Mountain Care Board, on the (1) results of pilot program including costs and savings; (2) prospects of the health insurer continuing or expanding the program; (3) feedback the health insurer received from health care provider community; and (4) an assessment of administrative costs associated with implementing the program.

PROPOSED GOLD CARD LAWS

YEAR	STATE	PLANS COVERED	INCLUDES RX DRUGS	HOW TO QUALIFY	LENGTH OF STATUS	NOTIFICATION OF APPROVAL	BILL SPONSORS	STATUS
2022	Federal (HR.7995)	Medicare Advantage (MA) plans.	No	Provider must have at least 90% approval of prior authorization requests within the last year for a particular service or group of services.	12 months	Automatically applies. MA organization must provide notice to each exempted provider, at least 30 days before the first day of each plan year, of their exemption status and the items, services, or group of similar services that the exemption applies to.	Representatives Michael Burgess, Vincente Gonzalez, and Mariannette Miller-Meeks	Failed
2021	California (SB.250)	All state-regulated health insurers authorized to do business in the state.	Yes ⁽³⁾	Providers must have at least 90% approval of prior authorization requests within the last year for a particular service.	12 months	Automatically applies. Health insurers must provide notice to each exempted provider.	Senators Richard Pan and Scott Wiener	Failed
2022	Colorado (H.960)	All state-regulated health insurers authorized to do business in the state; and all organizations that contract with health plans to conduct prior authorization reviews on behalf of a carrier, such as pharmacy benefit management firms.	Yes	Provider must have at least 95% approval of prior authorization requests for a health care service. Provider must also have submitted at least 24 prior authorization requests within the last 12 months. ⁽⁴⁾	12 months	Automatically applies. The health insurer must provide notice to each exempted provider and provide all data considered in making the determination.	Senators Barbara Kirkmeyer, Joann Ginal, and Dominick Moreno and Representatives Tim Geitner and Adam Bird	Failed
2022	Indiana (HB.1046)	All state-regulated health insurers authorized to do business in the state, including Medicaid managed care programs.	Yes	Provider must have at least 90% approval of prior authorization requests for a particular service within the last six months.	Six months	Automatically applies. Health insurers must provide notice to each exempted provider by Jan. 1 and July 1 of each year.	Representative Dave Heine and Co-Authored by Rep. Ann Vermilion.	Failed

(3) Does not include Tier 4 treatments and includes brand name drugs until Jan. 1, 2027. The bill also requires the Department of Managed Health Care and the Department of Insurance to each conduct an analysis of the inclusion of brand name prescription drugs as a health care service and report its findings to the Legislature by July 1, 2026.

(4) This bill would have required providers to offer one of three prior authorization incentive programs, one of which is the included gold card program. The other two proposed prior authorization reforms were providing an incentive to reduce administrative burdens on covered persons, or an innovative program to reward compliance with prior authorization requirements.

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YEAR	STATE	PLANS COVERED	INCLUDES RX DRUGS	HOW TO QUALIFY	LENGTH OF STATUS	NOTIFICATION OF APPROVAL	BILL SPONSORS	STATUS
2022	Kentucky (HB.343)	All state-regulated health insurers authorized to do business in the state and all organizations that contract with health plans to conduct prior authorization reviews on behalf of a carrier.	Yes	Provider must have at least 90% approval of prior authorization requests for a particular service within the last six months.	Six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of their qualification. Notification must also include a list of qualified exempted services and the duration of the exemption.	Representatives Kimberly Moser, Josie Raymond, and Sal Santoro	Failed
2022	Mississippi (HB.780)	All state-regulated health insurers authorized to do business in the state. Exception: Does not apply to Mississippi's Children's Health Insurance Program, the state Medicaid program, a managed care entities, or private review agents .	Yes	Provider must have at least 90% approval of prior authorization requests within the last six months for a particular service.	Six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of their qualification. Notification must also include a list of qualified exempted services and the duration of the exemption.	Representatives Sam Mims and Kevin Felsher	Failed
2022	Missouri (SB.947)	All state-regulated health insurers authorized to do business in the state. Exception: Does not apply to state Medicaid program.	Yes	Provider must have at least 90% approval of prior authorization requests for a particular service within the last six months.	Six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of their qualification. Notification must also include a list of qualified exempted services and the duration of the exemption.	Senator William White	Failed
2019	New Mexico (SB.188)	All state-regulated health insurers authorized to do business in the state. Exception: Does not apply to state Medicaid program.	Yes	Would require the New Mexico Office of the Superintendent of Insurance to develop a gold card policy in collaboration with health insurers, health care providers, and the board of pharmacy. The policy would be required to consider a provider's individual prior authorization approval rate, as well as several state averages for prior authorization approvals.	Not specified	Not specified	Senators Gay Kernan and Elizabeth Stefanics	Gold card provisions removed from final bill that passed



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2022	New York (S.8299)	All state-regulated health insurers authorized to do business in the state. Exception: Does not include the state Medicaid program.	Yes	Provider must have at least 90% approval of prior authorization requests for a particular service within the last six months.	Six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of their qualification. Notification must also include a list of qualified exempted services and the duration of the exemption.	Senators Neil Breslin, Cordell Cleare, James Skoufis and Patrick Gallivan and Assembly members Carrie Woerner, Steven Englebright, Richard Gottfried and Phil Steck.	Failed
2022	Oklahoma (SB.1409)	All Preferred Provider Operations (PPO) plans and Health Maintenance Organization (HMO) plans.	Yes	Provider must have at least 90% approval of prior authorization requests for a particular service within the last six months.	Six months	Automatically applies. Within 5 days of qualifying, health insurers must notify an exempted provider of qualification. Notification must also include a list of qualified exempted services and the duration the exemption.	Senator Zack Taylor.	Failed
2021	Vermont (H.102) ⁽⁵⁾	All state-regulated health insurers with more than 1,000 covered lives for major medical health insurance.	Yes	Requires that at least 30% of the insurer's participating health care providers, of which at least 40% must be primary care providers, are exempted from the prior authorization requirements.	Six months	Automatically applies.	Representatives Lucy Rogers and Lori Houghton.	Failed

(5) Amends Pilot Program –Would require that at least 30% of the insurer's providers are participating and that of the 30%, of which at least 40% must be primary care providers.



RELATED PROPOSED GOLD CARD LAWS

YEAR	STATE	PLANS COVERED	INCLUDES RX DRUGS	HOW TO QUALIFY	LENGTH OF STATUS	NOTIFICATION OF APPROVAL	BILL SPONSORS	STATUS
2022	Connecticut (AB. 5447)	N/A	N/A	<p>Pilot Study The Insurance Department would be required to conduct a study of a program that would exempt health care providers who have a certain rate of prior authorization approval for particular services from continuing to complete prior authorizations for a specified period of time.</p>	N/A	N/A	Senators Martin Looney and Saud Anwar	Failed

REFERENCES

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2. Id.
3. Maine, An Act Regarding the Process for Obtaining Prior Authorization for Health Insurance Purposes, <https://aimedalliance.org/prior-authorization-enacted-laws/#maine>.
4. AK Stat. § 21.07.020 (2013).
5. OR ORS § 743.035.
6. American Medical Association, New physician “gold card” law will cut prior authorization delays”, <https://www.ama-assn.org/practice-management/prior-authorization/new-physician-gold-card-law-will-cut-prior-authorization>.
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