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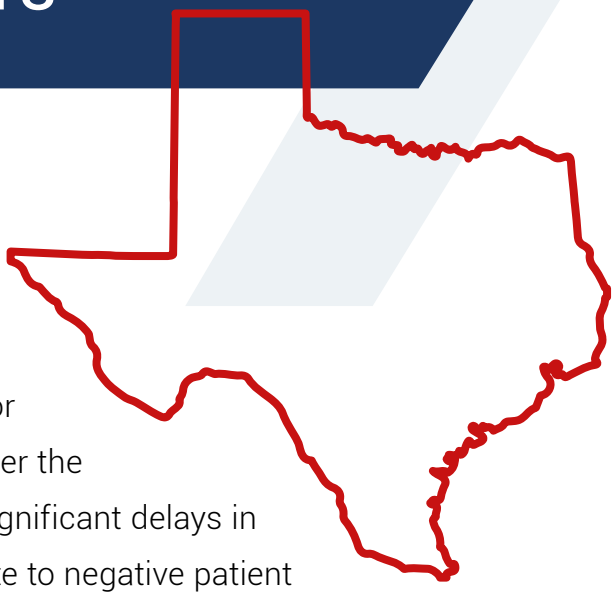
# TEXAS GOLD CARD LAW
## A Fact Sheet for Providers



## BACKGROUND

Prior authorization requires health care providers or insurance plan enrollees to obtain approval from insurers or pharmacy benefit managers before the health plan will cover the cost of a prescribed treatment.[1] This practice can create significant delays in patient access to their necessary treatments and contribute to negative patient outcomes.[2] For providers, prior authorization not only can impair their ability to treat patients with timely evidenced-based care, but it also is a time-consuming process that diverts valuable time and resources away from direct patient care by requiring providers to spend significant time completing needless paperwork.[3] Recognizing the need to protect prompt access to patient's treatments and reduce providers' administrative burdens, states have passed "gold card" laws to place guardrails on prior authorization policies. In some states, reform includes guardrails such as implementing time requirements,[4] prohibiting retrospective denials,[5] and requiring the use of standardized paperwork[6].

In continuing this effort, states have begun to introduce "gold card" laws. In 2022, Texas passed a gold-card law.[7] To ensure providers are aware of their rights and benefits under this new law, Aimed Alliance has developed the below fact sheet containing important information regarding this new law.

# TEXAS' GOLD CARD EXEMPTION

## What type of health plans does the law apply to?

The exemption applies to all state-regulated health plans in Texas, except Texas CHIP or Medicaid programs; self-funded employer plans; workers compensation coverage; and Medicare Advantage and Medicare Part D plans. State regulated health plans include:

1. health benefit plans offered by HMOs operating under Chapter 843;
2. a preferred provider benefit plan or exclusive provider benefit plan offered by an insurer under Chapter 1301; and
3. a person who contracts with an HMO or insurer to issue preauthorization determinations or perform the functions described in subchapter N for a health benefit plan.[8]

## Who qualifies as a gold-card provider?

Physicians or providers, who, in the most recent six-month evaluation period, submitted at least five prior authorization requests for a particular service or treatment and were approved at least 90 percent of the time.[9]

The six-month evaluation periods are January 1 to June 30 and July 1 to December 31.[10]

## What type of services or treatments does the gold-card law apply to?

The law applies to all services provided to prevent, alleviate, cure, or heal an illness or injury, including pharmaceutical services; medical, chiropractic, or dental care; hospitalizations; any care or services incidental to these services; and services provided under a limited health care service plan or a single health care service plan.[11]

## How will providers know if they qualify for gold-card status?

The "gold card" exemption applies automatically to qualified physicians and providers. Providers will be notified of their gold-card status within five days after qualifying for an exemption.[12] The gold-card status becomes effective the day the notice is issued by the plan to the provider.[13]

## How long does the exemption last for?

After qualifying for the exemption, practitioners and providers are not required to submit a prior authorization request for that procedure or service for at least the next six months, but some health plans may also extend the exemption to last longer than six months.[14] However, gold-card exemptions cannot be less than six months.[15] At the end of the six-months, or longer plan-specific time frame, the provider's exemption is reviewed to determine if it will be renewed for the next six months or if it will be rescinded.[16]

## What should providers do if their gold-card exemption is rescinded?

If a gold-card exemption is rescinded, the recission is effective 30 days after the provider receives notice of the rescission. Providers can appeal the decision to rescind their gold-card exemption by following the appeal process that is listed in the recission notification letter. Additionally, if providers have concerns regarding the health plan's recission or appeals process, they may file a complaint with the Texas Department of Insurance.

A complaint can be filed on the Texas Department of Insurance online complaint system, available at: https://www.tdi.texas.gov/hprovider/providercompl.html.

Alternatively, providers can also file a direct appeal to the Independent Review Organizations (IRO), which is a third-party organization that will review the health plan's decision to rescind the provider's gold-card exemption.[17] An appeal to the IRO must be filed before the recission's effective date.[18] The IRO has 30 days to review and make a decision on the appeal, and all decisions are binding on both the provider and the health plan.[19]

## What if my provider has not received a gold-card exemption notice?

If a provider has not received a gold-card exemption notification, the provider should first review whether they have submitted at least five prior-authorization claims for a particular item or service. If they have not, then they do not qualify for the exemption under the law and will not receive a letter from a health plan.

If the provider has completed at least five prior authorization requests for a particular item or services, the provider should reach out to the health plan issuer to determine their gold-card status.[20]

# WHERE CAN YOU GET MORE INFORMATION?

Do you have additional questions about Texas's new Gold Card Law? Contact the Texas Department of Insurance at 800-252-3459 or at https://www.tdi.texas.gov/index.html.

# REFERENCES


1. Aimed Alliance, Putting Profits Before Patients: Provider Perspectives on Health Insurance Barriers that Harm Patients,https://aimedalliance.org/wp-content/uploads/2018/10/Aimed-Alliance-Primary-Care-Survey-Report.pdf.
2. American Academy of Family Physicians, Prior Authorizations, https://www.aafp.org/about/policies/all/prior-authorizations.html.
3. Id.
4. Aimed Alliance, Prior Authorizations Maine, https://aimedalliance.org/prior-authorization-enacted-laws/#maine.
5. AK Stat. § 21.07.020 (2013).
6. ORS 743.035 Uniform prior authorization form for prescription drug benefits, https://oregon.public.law/statutes/ors_743.035.
7. TX HB 3459, https://legiscan.com/TX/text/HB3459/id/2408188.
8. Id.
9. Id.
10. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.
11. Texas Health Maintenance Organization Act, § 843.001, https://statutes.capitol.texas.gov/Docs/IN/htm/IN.843.htm.
12. Id.
13. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.
14. Texas Health Maintenance Organization Act, § 843.001, https://statutes.capitol.texas.gov/Docs/IN/htm/IN.843.htm
15. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.
16. Texas Health Maintenance Organization Act, § 843.001, https://statutes.capitol.texas.gov/Docs/IN/htm/IN.843.htm.
17. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.
18. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.
19. Id.
20. Department of Insurance, FAQ on HB 3459, https://www.tdi.texas.gov/health/hb3459-faq.html.

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