AIMEDALLIANCE

February 4, 2025

Senate Health & Long-Term Care Committee
P.O. Box 40466
Olympia, WA 98504-0466

Via Electronic Correspondence

RE: Senate Bill 5395 – Making improvements to transparency and accountability in the prior
        authorization determination process

Aimed Alliance is a not-for-profit health policy organization that seeks to protect and
enhance the rights of healthcare consumers and providers. We appreciate the opportunity to
provide comments on Senate Bill 5395, which seeks to improve transparency and accountability
in the prior authorization determination process. **We support the bill's guardrails to ensure
that artificial intelligence (AI)-driven prior authorization processes are transparent,
patient-centered, and predictable, however, we urge the Committee to adopt further
transparency measures requiring plans to disclose when AI is used in prior authorization
determinations, ensuring patients and providers can make informed appeals when
necessary.**

I.   Transparency on AI-Based Denials

The increasing use of AI in healthcare has the potential to improve the efficiency and
accuracy of coverage determinations, however, it is essential to ensure that, in addition to being
fair and unbiased, these determinations are also transparent. Recently, two class action lawsuits
have alleged that Medicare Advantage plans were using AI to deny a substantial number of
claims. Notably, the complaint alleges that these AI algorithms had a known 90 percent error
rate.[1] The high rate of inaccuracies can deny consumers the benefits they are entitled to and have
paid for with their premiums. Moreover, when AI is used in rendering a benefit decision, health
plans may not disclose that AI was used in rendering the coverage decision.

Aimed Alliance supports the bill's requirement that patients and providers have access to the
name, credentials and certifications of the physicians making prior authorization determinations.
However, we urge the Committee to strengthen the bill further by requiring plans to disclose in
denial letters whether AI was used as part of the review or coverage decision process, and the
extent to which AI was relied upon. Transparency in the use of AI will help ensure that
beneficiaries and providers understand how AI is being used to make coverage decisions and
ensure they can challenge those decisions when necessary.

II.   Guardrails on AI-Based Denials

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[1] *The Estate of Gene B. Lokken et al., v. United Health Care, et al.*, CASE 0:23-cv-03514 (Minn. 2023),
https://litigationtracker.law.georgetown.edu/wp-content/uploads/2023/11/Estate-of-Gene-B.-Lokken-et-
al_20231114_COMPLAINT.pdf.

If AI tools are going to be used in prior authorization determinations, it is critical that safeguards are in place to ensure they do not lead to inappropriate care denials that could jeopardize patient health. It has been widely reported that AI-driven coverage determinations wrongly deny coverage for essential medical services and treatments, leading to unnecessary delays in access to essential treatments.[2] Moreover, AI-driven coverage determinations may not have the practical experience of a provider who can better understand a healthcare providers treatment decision based on clinical experience. These improper denials can result in delays in care which may lead to hospitalization or worsened health outcomes. Patients and their providers must have the ability to challenge these decisions through review processes with appropriately credentialed professionals who have experience in the relevant medical field. Therefore, we support the bill's provision that AI cannot be the sole basis for denying or modifying care.

III. Predictability in Prior Authorization Policy Adjustments

Aimed Alliance acknowledges that prior authorization serves an important function in the healthcare system by helping to manage costs and ensure that treatments meet clinical guidelines, However, without proper guardrails, prior authorization practices can lead to excessive delays, administrative burdens, and denials of medically necessary care, which may have severe consequences for patients. Therefore, Aimed Alliance supports the bill's provision limiting prior authorization policy changes to once per year and requiring a four-month notice before implementation. Frequent or unexpected changes can create confusion for patients and providers, disrupt continuity of care, and increase administrative burdens. By ensuring that prior authorization requirements are predictable, this provision will help reduce unnecessary barriers to accessing timely care.

IV. Conclusion

Senate Bill 5395 proposes important improvements to transparency and accountability in the prior authorization determination process to protect patients from AI-driven coverage denials. To ensure the bill will adequately ensure that prior authorization processes remain fair and transparent, Aimed Alliance urges the Committee to adopt further transparency measures requiring plans to disclose when AI is used in prior authorization determination. By implementing these additional safeguards, SB 5395 will help protect patient and providers from unduly burdensome prior authorization procedures.

We appreciate the opportunity to provide written comments. If you have any questions or would like to further discuss our concerns. Please contact us at policy@aimedalliance.org.

Sincerely,

Olivia Backhaus
Staff Attorney
Aimed Alliance

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[2] Elizabeth Napolitano, *Lawsuits take aim at use of AI tool by health insurance companies to process claims*, CBS News (Dec. 18, 2023), https://www.cbsnews.com/news/health-insurance-humana-united-health-ai-algorithm/.