

S.2680 (Breslin) / A.859 (McDonald)

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BILL S.2680 (Breslin) / A.859 (McDonald)
SUBJECT Gold Carding
DATE May 25, 2023
OPPOSE

The Business Council opposes S.2680 (Breslin) / A.859 (McDonald) which exempts providers from prior authorization requirements if they meet certain performance criteria, including having at least 90% prior authorization approval from the insurer within the past six months. Otherwise referred to as a “Gold Card” program, this process undermines patient safety and increases costs to patients.

Preauthorization (or prior authorization) is an important tool designed to protect

patients and ensure they receive clinically appropriate medical care from a health care professional with appropriate training. The preauthorization process protects patients from potential overtreatment and unnecessary testing, saves patients from superfluous medical costs, and allows plans to recommend more suitable alternative courses of treatment or therapies. Without preauthorization, patients could be exposed to tests, procedures and services that are not medically necessary and may cause harm.

A 2017 [study](#) that surveyed 2100 doctors showed that almost 21% of medical care was unnecessary and 84.7% responded that the most common reason for overtreatment was the fear of malpractice. If enacted, this bill could only exacerbate the fears of malpractice lawsuits and lead to more unnecessary and potentially harmful medical care.

Further, this mandate is not needed in New York. New York State law requires health plans and utilization review agents make prior authorization determinations within three business days of receipt. In their justification for the bill, the sponsors detail the result of a 2020 American Medical Association study which claims that preauthorization policies result in care delays. However, this was a nationwide (emphasis added) study amongst physicians and is not representative of the experience within New York.

Some insurers who administer health plans in the state enter into similar 'gold card' agreements with trusted providers who have demonstrated a high level of quality, evidence-based care. However, these are agreements that are entered into between plans and providers voluntarily and are frequently evaluated to ensure consistency and quality for patients. They are limited in scope and do not remove prior authorization on highly complex services or pharmaceuticals. But this legislation goes far beyond those trusted, voluntary agreements; it is blanket approval for preauthorization and removes a health plan's ability to protect patients from potentially harmful care and unnecessary medical expenses.

New York's small and medium-sized businesses cannot continue to shoulder the burden of ever-increasing health care insurance costs. Paying for the unnecessary care that will occur if this bill becomes law will undoubtedly make health care costs more unaffordable for employers and their employees.

For these reasons, The Business Council urges the Legislature to reject S. 2020

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