



Legislative Council Staff
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Fiscal Note

Drafting Number: LLS 22-0308 **Date:** February 3, 2022
Prime Sponsors: Sen. Kirkmeyer **Bill Status:** Senate HHS
Sen. Ginal **Fiscal Analyst:** Annie Scott | 303-866-5851
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Bill Topic: **PRIOR AUTHORIZATION EXEMPTION HEALTH-CARE PROVIDER**

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

This bill requires that a health-care provider with at least a ninety-five percent approval rate of prior authorization requests over the preceding 12 months have at least one alternative to prior authorization. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$38,780 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 22-078

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	Cash Funds	\$38,780	\$39,772
	Centrally Appropriated	\$10,615	\$12,294
	Total Expenditures	\$49,395	\$52,066
	Total FTE	0.4 FTE	0.5 FTE
Diversion	General Fund	(\$49,395)	(\$52,066)
	Cash Funds	\$49,395	\$52,066
	Net Diversion	\$0	\$0

Summary of Legislation

Under current law, a carrier or private utilization review organization may offer a provider with at least an 80 percent approval rate of prior authorization approvals, an exemption from prior approval requirements. This bill increases the approval rate and makes the incentive mandatory as described below.

Health-care services. This bill requires that a carrier or private utilization review organization offer a provider that has at least a 95 percent approval rate of prior authorization requests over the preceding twelve months at least one alternative to prior authorization, including:

- an exemption from prior authorization requirements;
- an incentive award; or
- any other innovative program designed to reward the provider.

Prescription drug benefits. This bill requires that a carrier or pharmacy benefit management firm offer a prescribing provider that has at least a 95 percent approval rate of prior authorization requests over the preceding twelve months at least one alternative to prior authorization, including:

- an exemption from prior authorization requirements;
- an incentive award; or
- any other innovative program designed to reward the provider.

In addition, at least annually, a carrier or pharmacy benefit management firm must reexamine a prescribing provider's status for exemption from or alternative to prior authorization requirements, inform the prescribing provider of their status, and provide information concerning the data that was considered as part of the reexamination.

Background

Prior authorization is a process by which a health insurance carrier reviews a request for certain health care services or drugs before consenting to cover the proposed treatment. Upon receiving a request, a carrier can approve or deny the request, or request additional information. A carrier can employ this practice for a variety of reasons, including as a cost-control mechanism or to verify medical necessity.

State Diversion

The bill diverts \$49,395 from the General Fund to the Division of Insurance Cash Fund in FY 2022-23, and \$52,066 in FY 2023-24. This revenue diversion occurs because the bill increases costs in the Division of Insurance (DOI), which is funded with premium tax revenue that would otherwise be credited to the General Fund.

Assumptions

The fiscal note assumes that the bill will generate 200 complaints per fiscal year and that each complaint will require 5 hours of DOI staff time to:

- take complaint information from providers;
- determine whether the complaint is a violation of statute;
- communicate with the carrier, private utilization review organization, or pharmacy benefit management firm; and
- resolve the complaint.

The fiscal note also assumes a call volume of 100 calls per month lasting an average of 15 minutes each. If additional information becomes available to clarify these assumptions, the fiscal note will be revised to reflect the new information.

State Expenditures

The bill increases state expenditures in the DOI in DORA by \$49,395 and 0.4 FTE in FY 2022-23 and \$52,066 and 0.5 FTE in FY 2023-24 from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 22-078

Cost Components	FY 2022-23	FY 2023-24
Department of Regulatory Agencies		
Personal Services	\$32,580	\$39,097
Operating Expenses	-	\$675
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$10,615	\$12,294
Total	\$49,395	\$52,066
Total FTE	0.4 FTE	0.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. Beginning in FY 2022-23, based on the assumptions listed above, the DOI requires 0.5 FTE to address complaints and inquiries generated by the bill. This has been prorated to 0.4 FTE in FY 2022-23 to account for the bill's effective date. A pattern of complaints against an entity might require further investigation through a market conduct exam which can be accomplished within existing resources.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2022-23, the bill requires an appropriation of \$38,780 to the Department of Regulatory Agencies from Division of Insurance Cash Fund and 0.4 FTE.

State and Local Government Contacts

Connect for Health Colorado
Information Technology

Health Care Policy and Financing
Regulatory Agencies