

STATE OF NEW MEXICO

OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE
Russell Toal



DEPUTY SUPERINTENDENT
Jennifer A. Catechis

BULLETIN 2021-027

December 15, 2021

TO: EVERY PERSON SUBJECT TO THE REQUIREMENTS OF RULE 13.10.31 NMAC (THE “PRIOR AUTHORIZATION RULE”)

RE: PROCESS FOR OBTAINING OSI APPROVAL OF ALTERNATIVE PRIOR AUTHORIZATION REQUEST FORM

Rule 13.10.31.10(A)(2) NMAC provides that a “carrier may ask the superintendent to approve a non-uniform prior authorization request form.” This bulletin explains how a carrier shall make such a request, and when such a request is required. The guidance in this bulletin also applies to a Utilization Review Organization (“URO”) contracted by a carrier to conduct prior authorization reviews. Carriers and their contractors must be in compliance with this guidance no later than July 1, 2022.

Request Process – Stipulation

If a provider, or provider group, proposes the use of a non-uniform prior authorization request form for a specific service, or range of services, and the carrier, or its URO, agrees to accept the proposed non-uniform prior authorization request form, the carrier or provider shall submit the form and a notice of stipulation to the Life and Health Compliance Bureau at: rolanda.pana@state.nm.us. The request to use the form will be deemed approved unless rejected by the superintendent within 10 days. Within 10 days of being deemed approved, the carrier, or its URO, shall post the form for use by all providers. The stipulation process is not required when a provider uses a non-OSI approved prior authorization request form that is acceptable to the payor and neither the provider nor payor propose to routinely use that form. Such a provider-specific

form shall be deemed acceptable unless the payor delivers a written objection to the form to the submitting provider within 5 business days.

Request Process – No Stipulation

A carrier that wishes to use a non-standard prior authorization request form that was not proposed and stipulated to by a provider or a provider group must ask the superintendent to approve the form pursuant to the informal declaratory ruling process of Rule 13.1.6.8(A)(2)(b). The declaratory request by a carrier or its URO shall ask the superintendent to determine and declare whether the requestor has the right to use a proposed non-uniform prior authorization request form. A request by a URO shall identify the carrier who the URO represents, and the URO shall certify that it is authorized to make the request on behalf of that carrier with its informed consent.

Upon receiving the request, the superintendent will appoint an Office of Superintendent of Insurance (“OSI”) staff person to evaluate the request and recommend to the superintendent whether the proposed form should be approved. The appointed staffer shall be empowered to solicit any evidence, justification or comment important to that determination. The process shall also be subject to all procedures specified in Rule 13.1.6 NMAC, including the right of any interested person to intervene and provide evidence supporting or opposing the request. A requestor may seek approval of multiple forms as part of a single declaratory ruling request.

A request for approval of a non-uniform prior authorization request form(s) shall be initiated by filing the request in the OSI docket: <https://edocket.osi.state.nm.us>. Any request shall be accompanied by a justification that identifies how this form will expedite the prior authorization review process.

Request Necessity

A non-uniform prior authorization request form is any standalone alternative to the uniform request form, or any combination of forms that a carrier or its URO would accept as an alternative to the uniform request.

Even if the OSI approves a non-uniform prior authorization request form, a carrier or its URO shall accept a uniform prior authorization request. A carrier or its URO shall evaluate a prior

authorization request using an approved, non-uniform form using the same processes and timelines that pertain to the uniform form.

A carrier or its URO shall not require the submission of any form in addition to the uniform request as a condition to prior authorization. Mandating that a supplemental form be used in conjunction with the uniform request form constitutes a non-uniform prior authorization request process that must be approved by the superintendent.

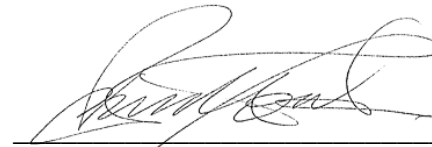
A carrier may publish prior authorization request submission guides and forms that will assist a provider in identifying, organizing, and presenting the information that will facilitate review of a prior authorization request. Superintendent approval of such materials is not required unless a provider is required to submit a related form to obtain a prior authorization. A carrier shall clearly identify in the provider manual or provider portal all approved prior authorization request forms, and any optional guides and support forms.

Approval of a non-standard form does not excuse a carrier, or its URO, from mandated prior authorization review timelines.

Please direct any questions concerning this guidance to paige.duhamel@state.nm.us.

ISSUED this 15th day of December, 2021.

SUPERINTENDENT OF INSURANCE



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