

LC003569

**IN GENERAL ASSEMBLY**

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RELATING TO INSURANCE -- THE TRANSPARENCY AND ACCOUNTABILITY IN  
ARTIFICIAL INTELLIGENCE USE BY HEALTH INSURERS TO MANAGE COVERAGE  
AND CLAIMS ACT

Referred To: House Health & Human Services

1           SECTION 1. Title 27 of the General Laws entitled "INSURANCE" is hereby amended by  
2   adding thereto the following chapter:

4     THE TRANSPARENCY AND ACCOUNTABILITY IN ARTIFICIAL INTELLIGENCE USE  
5     BY HEALTH INSURERS TO MANAGE COVERAGE AND CLAIMS ACT

7        (a) This chapter shall be known and may be cited as "The Transparency and Accountability  
8        in Artificial Intelligence Use by Health Insurers to Manage Coverage and Claims Act."

12                    **27-84-2. Definitions.**

(1) "Adverse benefit determination" means a decision not to authorize coverage for a healthcare service, including a denial, reduction, or termination of, or a failure to provide or make a payment, in whole or in part, for a benefit. A decision by a utilization-review agent to authorize a healthcare service in an alternative setting, a modified extension of stay, or an alternative

1 treatment shall not constitute an adverse benefit determination if the review agent and ordering  
2 provider are in agreement regarding the decision. "Adverse benefit determination" includes:

3 (i) "Administrative adverse benefit determination," meaning any adverse benefit  
4 determination that does not require the use of medical judgment or clinical criteria such as a  
5 determination of an individual's eligibility to participate in coverage, a determination that a benefit  
6 is not a covered benefit, or any rescission of coverage; and

7 (ii) "Non-administrative adverse benefit determination," meaning any adverse benefit  
8 determination that requires or involves the use of medical judgement or clinical criteria to  
9 determine whether the service being reviewed is medically necessary and/or appropriate. This  
10 determination includes the denial of treatments determined to be experimental or investigational,  
11 and any denial of coverage of a prescription drug due to the fact that the drug is not on the insurer's  
12 formulary.

13 (2) "Artificial intelligence" means a machine-based system that can, for a given set of  
14 human-defined objectives, make predictions, recommendations or decisions influencing real or  
15 virtual environments. Artificial intelligence systems use machine and human-based inputs to:

16 (i) Perceive real and virtual environments;

17 (ii) Abstract such perceptions into models through analysis in an automated manner; and

18 (iii) Use model inference to formulate options for information or action.

19 (3) "Enrollee" means an individual who has health insurance coverage through an insurer.

20 (4) "Insurer" means an insurance company licensed, or required to be licensed, by the State  
21 of Rhode Island or other entity subject to the jurisdiction of the commissioner or the jurisdiction of  
22 the department of business regulation pursuant to chapter 62 of title 42, that contracts or offers to  
23 contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of  
24 the costs of healthcare services, including, without limitation: a for-profit or nonprofit hospital,  
25 medical or dental service corporation or plan, a health maintenance organization, a health insurance  
26 company, or any other entity providing a plan of health insurance, accident and sickness insurance,  
27 health benefits, or healthcare services including, but not limited to, pharmacy benefit managers.

28 (5) "Medically necessary care" means a medical, surgical, or other service required for the  
29 prevention, diagnosis, cure, or treatment of a health-related condition including any such services  
30 that are necessary to prevent or slow a decremental change in either medical or mental health status.

31 (6) "Provider" means a physician, hospital, professional provider, pharmacy, laboratory,  
32 dental, medical, or behavioral health provider or other state-licensed or other state-recognized  
33 provider of health care or behavioral health services or supplies.

34 **27-84-3. Requirements.**

1           (a) Transparency.

2           (1) Insurers subject to this chapter shall disclose to the office of the health insurance  
3 commissioner ("OHIC") and the department of business regulation ("DBR") how they use artificial  
4 intelligence to manage healthcare claims and coverage including, but not limited to, the types of  
5 artificial intelligence models used, the role of artificial intelligence in the decision-making process,  
6 training datasets, performance metrics, governance and risk management policies, and the decisions  
7 on healthcare claims and coverage where artificial intelligence made, or was a substantial factor in  
8 making, the decisions.

9           (2) Insurers shall submit to the office of the health insurance commissioner and the  
10 department of business regulation, upon request, all information, including documents and  
11 software, that permits enforcement of this chapter.

12           (3) Insurers shall maintain documentation of artificial intelligence decisions for at least five  
13 (5) years including adverse benefit determinations where artificial intelligence made, or was a  
14 substantial factor in making, the adverse benefit determination.

15           (b) DBR/OHIC reporting.

16           (1) DBR/OHIC shall provide an initial report to the governor, the senate president and the  
17 speaker of the house on the use of artificial intelligence by health insurers within eighteen (18)  
18 months of the effective date of this chapter and annually thereafter.

19           (2) The annual report shall state how health insurers use artificial intelligence to manage  
20 claims and coverage. The report shall state, for each insurer:

21           (i) The types of artificial intelligence models used;

22           (ii) The role of artificial intelligence in the decision-making process to approve or deny  
23 healthcare claims or coverage whenever artificial intelligence is used to make, or is a substantial  
24 factor in making, a decision on healthcare claims or coverage;

25           (iii) Information regarding training, testing, and risk management including data  
26 governance measures used to cover the training data sets and the measures used to examine the  
27 suitability of data sources, possible biases and appropriate mitigation; and

28           (iv) Performance metrics including: number of claims; percentage of claims accepted and  
29 denied; the average time claim reviewers and medical professional reviewers spend on each claim  
30 and on denials of claims; percentage of claims appealed; and percentage of denials reversed.

31           **27-84-4. Non-administrative adverse benefit determination review.**

32           (a) Any non-administrative adverse benefit determination where an artificial intelligence  
33 system made, or was a substantial factor in making, that determination regarding medically  
34 necessary care shall be reviewed and approved by a provider with the same license status of the

1 ordering professional provider before being finalized, with documentation of their rationale  
2 included in the enrollee's case record. Failure to follow the requirements set forth in this subsection  
3 shall result in reversal of the non-administrative adverse determination.

4 (b) Appeals of non-administrative adverse benefit determinations made by an artificial  
5 intelligence system regarding medically necessary care that has been reviewed and approved by a  
6 provider with the same license status of the ordering professional provider shall comply with the  
7 appeals process set forth in chapter 18.9 of title 27.

8 **27-84-5. Enforcement.**

9 (a) OHIC, in collaboration with DBR, shall promulgate rules and regulations that may be  
10 necessary to effectuate the purposes and implementation of this chapter.

11 (b) The total cost of complying with the requirements of this chapter and the applicable  
12 rules and regulations shall be borne by the insurer.

13 **27-84-6. Severability.**

14 If any provision of this chapter is found unconstitutional, preempted, or otherwise invalid,  
15 that provision shall be severed, and such decision shall not affect the validity of the remaining  
16 provisions of this chapter.

17 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE -- THE TRANSPARENCY AND ACCOUNTABILITY IN  
ARTIFICIAL INTELLIGENCE USE BY HEALTH INSURERS TO MANAGE COVERAGE  
AND CLAIMS ACT

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- 1           This act would promote transparency and accountability in the use of artificial intelligence
- 2   by health insurers to manage coverage and claims.
- 3           This act would take effect upon passage.

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