



In-Person Testimony of Andrew Wiens  
On behalf of Kansas Employers for Affordable Healthcare  
In Opposition to HB 2283  
Provided to the House Committee on Insurance  
On February 20, 2023

Chairman Sutton and Members of the House Committee on Insurance:

Thank you for the opportunity to testify today in opposition to House Bill 2283. My name is Andrew Wiens, and I'm appearing before you today as Executive Director of Kansas Employers for Affordable Healthcare (KEAH).

By way of background, KEAH is a new organization launched to fight alongside businesses and employees facing rising costs for healthcare.

The members of this committee know how important employer-sponsored healthcare benefits are to Kansas workers. Over the years, employer-sponsored health coverage has taken some hits from mandates that raise costs on businesses both large and small, undermine a key job recruitment and retention tool, and erode the household buying power of hard-working Kansas employees.

Simply put, KEAH has formed to push back on mandates and other burdensome government requirements that raise the cost of employer-sponsored healthcare benefits. We are a coalition of employers that offer these benefits and are fighting on behalf of all types of employers, whether they are small businesses, trade associations, labor unions, municipalities, large corporations, or school districts.

The reason KEAH is opposing HB 2283 today is that this legislation will raise the cost of employer-sponsored health benefits.

HB 2283 restricts prior authorization services by prescribing in great detail when and how they can be used. This bill impinges on contractual arrangements between payers (private and public employers and their insured employees) for healthcare services and providers, and significantly encroaches on a tool used by these payers to keep costs low: prior authorization.

What is prior authorization? Prior authorization is a requirement that a plan pre-approves a healthcare service (medical, chiropractic, dental or vision services, hospitalization, or pharmaceutical services as defined in HB 2283) before a provider can provide it to the enrollee as a covered benefit. The major goals of prior authorization are to ensure appropriateness and suitability of the prescribed service for the specific

patient as well as to control costs. Keeping employer-sponsored healthcare costs low is foundational to our organization's mission, which is why we support prior authorization as a cost-controlling tool.

In a study of pharmacy benefits managers' (PBMs') efforts to manage drug expenditures and utilization in Medicare Part D, the U.S. Government Accountability Office stated, "Our review of 52 peer-reviewed studies indicates that utilization management services were associated with financial savings or improved beneficiary health indicators."<sup>1</sup>

It is important to note that "utilization review entities" are defined in this legislation to include "an individual or entity that performs prior authorization for an employer with employees in Kansas who are covered under a health benefit plan or health insurance policy." The requirements and mandates that follow will increase costs on Kansas employers, their employees, and their families.

HB 2283 mandates the means by which electronic prior authorization transactions be conducted, giving preference to the physician's electronic health record or electronic prescribing system rather than the system used by the utilization review entity. Requiring a certain system for conducting these transactions would be a great example of government overreach. These decisions should be made by the parties involved, not by legislative fiat.

This legislation also includes a number of time limits that utilization review entities have for conducting prior authorization reviews and for responding to appeals of prior authorization decisions. Interestingly, the bill uses "not less than" language for the deadline for providers to submit information and "not later than" for the time in which utilization review entities must respond.

HB 2283 also proposes what is commonly known as "gold carding." "Gold card" programs allow physicians with high rates of prior authorization approvals over a specified time period to be exempt from prior authorization requirements. While this might appear to beneficially reduce administrative burdens, gold carding can create significant challenges, including the following:

- Provider performance may start to slip once the provider has gold card status. This may be due to the loss of the sentinel effect (providers order more appropriately if they know their decisions are being monitored).
- Gold carding is based on the false premise that getting it right 90% of the time is good enough. Employers and their employees are on the hook for increased costs when prior authorization tools are not utilized effectively.
- Providers within the same clinic or group often perform differently, creating potential confusions.
- The rapid pace of innovation in medicine often demands a second set of eyes from experts in the field, to ensure clinical care is properly provided.

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<sup>1</sup> U.S. Government Accountability Office (GAO), "Medicare Part D: Use of PBMs and Efforts to Manage Drug Expenditures and Utilization," July 2019

The Committee may also be interested to learn that federal rules on prior authorizations have been proposed by CMS. AHIP, an association that represents health insurance plans, has provided the following recommendation in light of this fact: "To avoid conflicting requirements, states should defer any legislative or regulatory action on prior authorization while these new federal rules are being finalized."

Prior authorization is a tool to improve patient access to more affordable, safer healthcare services while minimizing overall medical costs. While these costs may be borne initially by insurance plans, everything rolls downhill. Employers will be forced to pay the lion's share of increased costs through more expensive plan costs. Employees and their families will also be forced to pay higher premiums, deductibles, and copays.

With this in mind, we ask that you refrain from passing HB 2283. Thank you.

Andrew Wiens  
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Kansas Employers for Affordable Healthcare