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Mister Chair and members of the committee, thank you for the opportunity to appear today on behalf of Cigna. I am here to present information and concerns regarding HB 2883. Our issues and concerns with the bill are listed below but I will mostly focus my comments on the section 7, commonly referred to as gold carding.

Cigna is a global health services company dedicated to improving the health, well-being, and peace of mind of those we serve. Cigna covers more than **180 million customer and patient relationships,** in more than **30 countries and jurisdictions**, and has a global workforce of more than **70,000 employees, including hundreds in Kansas.** Cigna is dedicated to living our mission and being champions for our customers and communities and working together in close partnership with our colleagues, customers, providers, clients, and communities to create personalized solutions and advance whole-person health.

We believe that this legislation in its current form lacks many critical and necessary definitions. Cigna requests clarity regarding the definitions of “chronic” vs. “long-term”, as well as a better understanding of what constitutes health care services and emergency health care services. There is also much uncertainty regarding what equates to an “urgent request”. The way that the legislation currently reads, Cigna believes it will create an environment where a provider will simply mark his/her requests as urgent, whether appropriate or not.

Other issues include Section two (2), line 28 that creates operational issues for Cigna's current medical oncology program whereby some requests for pharmacy benefit drugs are not integrated with the provider’s electronic medical records. While Cigna opposes the verbiage as written, Cigna does strongly support the need for electronic submissions via a portal that would promote a faster turnaround time. Further, Cigna opposes the definition of “physician” as written, as this definition appears to create a same state licensure mandate. Cigna strongly supports the notion that all physicians that are board certified in their specialty and licensed in at least one state are qualified to work within their scope. The requirement that all physicians conducting medical necessity reviews be licensed in the state is onerous and does not increase the standards of care for patients in Kansas.

Section six (6), line 33 also requires appeals to be conducted by a peer in a same or similar specialty as the requesting health care provider. Cigna believes that patients would be better served by adding language that would also allow a physician who commonly treats the condition for which services are being rendered.

Cigna is also very concerned about gold carding proposal found in Section seven (7) for some utilization review requests. While it may sound like a reasonable practice, gold carding would have several serious negative impacts:

- Increase inappropriate care and costs, while not positively changing behavior long-term.
- Result in greater confusion and increase the administrative burden for providers.
- Eliminate several important benefits of utilization review.

Flawed Premise

- Gold carding is built on a flawed premise. It asks patients to accept that even the best providers will get their care wrong 10% of the time and remain completely unchecked.

- That inappropriate 10% costs patients financially, physically and mentally, through unnecessary out-of-pocket costs, delayed access to evidence-based care, and exposure to potentially harmful care. These negative impacts do not occur out of malice but rather because medical knowledge is increasing so quickly, it requires a check for blind spots and outdated practices.

- Simply put, patients deserve to get the most appropriate care in line with the latest evidenced based care 100% of the time. Utilization management programs work in partnership with the ordering physicians to ensure this is the case.

Decreasing Patient Care Quality, Increasing Costs

- Simply because a provider reaches a certain approval rate, as required for gold carding, does not mean they will continue to order appropriately in the absence of a utilization review program.

- In fact, gold carding has been shown to be unsuccessful in encouraging long-term, positive behavior change. Removing incentives like utilization review causes a nearly immediate regression in behavior because of the misaligned incentives that are inherent in a fee-for-service reimbursement environment and this regression decreases the quality of patient care and increases costs for everyone.

- Utilization review creates a sentinel effect whereby performance improvement occurs because providers in a program know they are being evaluated. Without utilization review, this improvement dissipates. A study published in *The New England Journal of Medicine* found that when incentives were removed for physicians in U.K. primary care practices, there were immediate reductions in documented quality of care across 12 indicators. Conversely, there was little change in performance on the six quality measures for which incentives were maintained.

Greater Confusion and Administrative Burden

- Having a certain set of rules for some providers and not others will create confusion and add to the administrative burden of delivering health care.

- Gold carding benefits a limited number of providers while at the same time shifting burden onto capitated-delegated physician organizations.
- Physician groups will have to navigate how to operate under differing standards for different providers, which is likely to result in delays, errors and lost efficiency.

Elimination of Other Utilization Review Benefits
Gold carding would also eliminate several other benefits of utilization review, including:

- *Alternative Recommendations*: Utilization review processes frequently direct providers to alternative tests, treatments and procedures that are more appropriate for a patient's needs. During the review process, evidence-based guidelines are followed unless the patient's unique circumstances identify them as an exception to guidelines, when that means recommending an alternative that may be more expensive. Under gold carding, the opportunity to provide alternative recommendations is lost, resulting in lower-quality care for patients.

- *Filling Gaps in Clinical Competency:* Medical knowledge is growing at unprecedented rates and increasing at a steady pace each year. In 1950, it took 50 years to double medical knowledge. In 2010, it took 3.5 years. In 2020, it took just 73 days. This creates knowledge gaps for even the most talented physicians. Additionally, having deep knowledge and experience in one clinical area does not always translate to other areas. For example, a neurologist may be very competent in using brain MRI procedures to assess patients with a headache but may not be as experienced in using a joint MRI to assess a patient with knee pain. For providers who qualify for gold carding, there is no opportunity to help fill these gaps in knowledge, which is a great disservice to patients.

- *Check on Self-Referring Providers*: Self-referral is a serious problem that leads to costly, unnecessary care. For example, the U.S. Government Accountability Office (GAO) reviewed Medicare data from 2004 to 2010 and found that the number of self-referred MRI services increased by more than 80% while MRI services without self-referrals increased only 12% during that time. Additionally, the report found that providers' referrals for MRI services substantially increased the year after they began to self-refer – growing by about 67%.

Conclusion
Utilization review plays a critical role in helping patients receive high-quality, evidence-based care, and it keeps costs down for the entire health care system. Policymakers must consider the health and safety impact that this bill will have on impacted on patients. Patients' well-being should be considered 100% of the time. As has been seen with the passage of the gold carding law in Texas, legislation such as HB 2883 exacerbates the issue and creates enormous complexities, as evidenced by the Texas Department of Insurance taking 15 months to promulgate rules with many questions still not completely answered in advance of the October 1, 2022 start date for exemptions. Indeed, it will take years before any determination can be made on the effectiveness of this law.

Over the past few years, several states have adopted thoughtful legislation that more holistically addresses provider concerns such as streamlining the utilization review process and reducing delays in care and creates a better experience for providers without sacrificing patient care. Cigna is happy to share these examples with the bill author and committee, as Cigna considers these good starting points in your consideration for more meaningful prior authorization reform legislation. Thank you for your time and if you have any questions you may contact me or Kandice Sanaie, State Government Affairs for Cigna at 512-426-6761 or Larrie Ann Brown at 785-640-2747, who is Legislative Counsel for Cigna in Kansas.