

Amendment to HB 1406

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to health carrier recordkeeping requirements in utilization review, including  
4 specifications regarding the use of artificial intelligence.

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6 Amend the bill by replacing all after the enacting clause with the following:

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8 1 New Subparagraph; Managed Care Law; Utilization Review; Standards and Procedures for  
9 Use of Artificial Intelligence. Amend RSA 420-J:6, I by inserting after subparagraph (d) the  
10 following new subparagraph:

11 (e) Each health carrier shall maintain written records related to the health carrier's use  
12 of algorithms, artificial intelligence, or other machine based systems, including but not limited to:

13 (1) Which functions artificial intelligence is used for; and

14 (2) Protocols ensuring qualified human review of determinations affecting provider  
15 coding decisions.

16 2 New Paragraph; Managed Care Law; Utilization Review; Adverse Determinations;  
17 Contracting Liability. Amend RSA 420-J:6 by inserting after paragraph XI the following new  
18 paragraphs:

19 XII. Adverse Determinations.

20 (a) All adverse determinations, including payment reductions and down coding, must be  
21 made by a qualified health care provider.

22 (b) The health carrier must provide written notice of the adverse determination to the  
23 covered person and the covered person's health care provider detailing the reason for the decision.

24 (c) The health carrier shall maintain records including, but not limited to the following:

25 (1) The information submitted to the health carrier;

26 (2) The information reviewed by the qualified health care provider;

27 (3) Applicable clinical guidelines;

28 (4) Whether artificial intelligence was used to assist the reviewer; nd

29 (5) The clinical rationale for the decision.

30 XIII. Whenever a health carrier contracts to have another entity perform any functions,  
31 including use of artificial intelligence systems developed by another entity, related to utilization  
32 review, the commissioner shall hold the health carrier responsible for monitoring the activities of the

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1 entity with which it contracts and for ensuring that the requirements of this section and applicable  
2 rules are met.

3 3 Effective Date. This act shall take effect January 1, 2027.

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AMENDED ANALYSIS

This bill:

I. Requires health carriers under the managed care law to maintain written records relative to their use of artificial intelligence and protocols for ensuring human review of certain determinations.

II. Requires health carriers to make any adverse determinations relative to a covered individual and maintain records related to an adverse determination including whether artificial intelligence was used.

III. Establishes health carriers as responsible for the activities of entities which they have contracted with, relative to such requirements.