April 19, 2024

The Honorable Virginia Lyons, Chair
The Honorable David Weeks, Vice Chair
Senate Committee on Health and Welfare
Vermont Senate
Submitted via email: vlyons@leg.state.vt.us

RE: ASHA and VSHA Joint Letter of Support for H.766

Dear Senator Virginia Lyons:

On behalf of the American Speech-Language-Hearing Association (ASHA) and the Vermont Speech-Language Hearing Association (VSHA), we write in support of H.766, which would help streamline prior authorization practices across payers in Vermont.

ASHA is the national professional, scientific, and credentialing association for 234,000 members and affiliates who are audiologists; speech-language pathologists (SLPs); speech, language, and hearing scientists; audiology and speech-language pathology assistants; and students. Over 500 ASHA members reside in Vermont.[1] VSHA is the nonprofit professional association for SLPs and audiologists who practice in Vermont. VSHA's mission is to serve the needs of professionals who deal with communication disorders through professional development, advocacy, and colleagueship.

SLPs identify, assess, and treat speech, language, swallowing, and cognitive-communication disorders. Audiologists have comprehensive knowledge about hearing loss and the impact unaddressed hearing loss has on speech and language development, communication, and learning. ASHA members serve patients in Vermont across many different settings, including schools, outpatient clinics, hospitals, and skilled nursing facilities. ASHA greatly appreciates the efforts of the Vermont General Assembly members to simplify the requirements for prior authorization of services for audiologists and SLPs who often enroll with many different types of insurance plans in Vermont.

ASHA and VSHA recommend that all state Medicaid programs follow the Medicaid National Correct Coding Initiative (NCCI) program and eliminate prepayment review.

The NCCI program helps state Medicaid programs promote program integrity in Medicaid by preventing payment when incorrect procedure code combinations are reported.[2] The current legislation helps ensure that providers have adequate notice of any changes to the edits and gives them time to come into compliance. We strongly encourage state Medicaid programs to adopt the NCCI edits in their entirety to ensure that inappropriate code pairings are caught to prevent improper payment. Adopting the NCCI edits also helps ensure consistency across payers.

ASHA and VSHA agree that prepayment review should be eliminated.

Prepayment review was originally envisioned for the Medicare program. It puts providers who have already rendered services at risk of receiving no payment or delayed payment – unlike

prior authorization, where services are not rendered before payer review.[3] While prior authorization of services brings its own challenges, prepayment review can seriously hinder a provider who relies on timely payment to continue their practice. ASHA and VSHA appreciate that the current bill will eliminate this problematic practice.

ASHA and VSHA recommend caution when employing prior authorization techniques for utilization management.

Prior authorization is often cited as a way to curb fraud, waste, and abuse in health insurance programs. Unfortunately, the service delays caused by its implementation are well documented and can prevent access to care across various health insurance plans, including Medicaid, Medicaid managed care, private health plans, Medicare, and Medicare Advantage.[4,5,6]

With this legislation, Vermont joins the current presidential administration in its goal of reducing prior authorization burden and reaffirming that patients' providers are best suited to make assessments of appropriate care.[7] During the Senate Committee on Health and Welfare's hearing regarding H.766 on April 10, 2024, committee members astutely noted with frustration that prior authorization practices involve people who are not the provider – such as a nurse reviewer – dictating what is or is not medically necessary for a patient they've never seen themselves.

During the same hearing, Committee members asked whether prior authorization is solely a problem for prescription medication authorization processes. The physician assistant who testified agreed this was far larger than prescription medications. Patients of audiologists and SLPs can also experience significant delays in care that can cause major problems for patients across the lifespan. Two examples include (1) a child with significant communication barriers due to hearing loss in early childhood who needs prompt access to language acquisition skills during critical developmental windows and (2) an adult discharged from the hospital after a stroke in need of speech-language pathology services in order to learn how to swallow to avoid aspirating.

Prior authorization is one tool that attempts to ensure program integrity. However, when prior authorization denials are appealed, they are *very* often overturned. One study by the Kaiser Family Foundation found that 82% of Medicare Advantage plan appeals – which follow similar prior authorization procedures to those of Medicaid managed care and even private health insurance – resulted in fully or partially overturning the initial prior authorization denial.[8] This high rate of overturn suggests that without prior authorization denial appeal, many of these services should have been covered from the start. With 62% of physicians surveyed reporting that prior authorization led to additional office visits and 45% of ASHA members surveyed reporting prior authorization led to repeated payment reductions, it is clear that prior authorization is not actually reducing overutilization.[9,10,11]

ASHA and VSHA recommend greater specificity around timing of documentation receipt for prior authorization.

Prior authorization practices delay access to care in a myriad of ways. One of those documented ways is through requesting additional documentation to meet the medical necessity criteria laid out by a health plan. This request for additional documentation is often done after providers have already submitted the outlined and requested documentation from the start, but the plan wants more information in order to complete its review and grant prior authorization.

ASHA and VSHA appreciate that the current bill wants to reduce the time allowed for response from the plans in reviewing medical necessity criteria. However, we have seen that even given time parameters for processing of prior authorization requests, plans will often redefine the benchmarks for when prior authorization is truly complete. For example, plans will sometimes define their completion of prior authorization practices when all requested documentation is received, even if that is over the course of several weeks or even months.

ASHA and VSHA recommend the legislation add on page 10 line 14, "within 24 hours following receipt *[of initial prior authorization request from provider]*."

This additional language will ensure that plans must adjudicate the request without delay and cannot request additional information that was not previously articulated or required for review. This will also serve to encourage plans to specifically and clearly articulate requirements for documentation such that providers will be able to submit all documentation at one time.

VSHA would like to join the Working Group that H.766 establishes.

ASHA and VSHA recognize the importance of provider input in establishing health plan policies. As the professional association for Vermont-based audiologists and SLPs, VSHA would very much appreciate the opportunity to participate in the Working Group involving health plans, contracting entities, and payers subject to the terms of this legislation. If able to participate, VSHA leadership can ensure that patients get access to critical therapy and audiology services by spotting problematic policies before they are implemented.

We appreciate this opportunity to offer feedback on H.766 and laud the efforts of the General Assembly members to ensure Vermont's patients are getting the care they need when they need it. If you or your staff have any questions, please contact Caroline Bergner, ASHA's director of health care policy for Medicaid, at cbergner@asha.org, and Doanne Ward-Williams, ASHA's senior director of state affairs, at dwardwilliams@asha.org.

Sincerely,

Tena L. McNamara, AuD, CCC-A/SLP
2024 ASHA President

Jennifer Conforti, CCC-SLP
2024 VSHA President

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[3] Centers for Medicare & Medicaid Services. (2016). *Medicare Claim Review Programs*. https://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnproducts/downloads/mcrp-booklet-text-only.pdf

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