

MEMORANDUM

TO: House Committee on Health Care
FROM: Department of Financial Regulation
SUBJECT: H. 766, An act related to prior authorization and step therapy requirements, health insurance claims, and provider contracts
DATE: April 30, 2024

The Department of Financial Regulation (the “DFR”) respectfully submits this written comment in response to the recent amendment from the Senate to H. 766 and to update our testimony provided in this Committee in February. In the time since we provided our testimony, health plans shared updated cost estimates for the bill. Estimates ranged from a 3-7% increase for members premiums based on the version of the bill as passed by the House (on top of any other necessary rate increases). These projections led us to [recommend that an actuarial study be completed](#) to better understand the cost impacts of the bill prior to enacting these consequential changes. Specifically, DFR has concerns with the changes to prior authorization and claims editing in sections 2 and 3 of the bill. This bill would not apply to the vast majority of health plans in the commercial market that fall outside of the Department’s jurisdiction.¹ We remain concerned that to the extent that provider burden is ameliorated by this bill, it will be outweighed by potentially significant premium increases that will contribute to the diminishment of regulated health plans as employers and individuals seek lower-cost health coverage.

Last week, the Senate passed an amendment to Section 3 of the bill which would restrict health plans from requiring any prior authorization for any admission, item, service, treatment, or procedure ordered by a primary care provider. The cost and implementation impact of this change is unknown. DFR recognizes the importance of reducing provider administrative burden, but we also recognize the importance of cost control measures so that health insurance remains affordable. We believe that commissioning an actuarial study to evaluate the cost impact of Sections 2 and 3 of H. 766, prior to enactment or effectiveness, is a necessary and prudent step to evaluate the potential costs and benefits of the bill.

¹ See Department of Vermont Access, Health Insurance Coverage Map (Apr. 8, 2024), *available at* <https://dvha.vermont.gov/sites/dvha/files/documents/202401-VT-HealthCoverage-Map.pdf>. (Showing that the individual and small group markets regulated by the Department make up approximately 24% of the overall commercial market).