Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 820   (Delegate Hill, *et al.*)

Health and Government Operations   Finance

Health Insurance - Utilization Review - Use of Artificial Intelligence

---

This bill requires a "carrier," a pharmacy benefits manager (PBM), or a private review agent (PRA) that uses "artificial intelligence" (AI), algorithms, or other software tools for utilization review (including working through an entity that uses such tools) to ensure that such tools are used in a specified manner. The bill also alters the information a carrier must currently submit in its quarterly adverse decisions and grievances report to include whether an AI, algorithm, or other software tool was used in making an adverse decision.

Fiscal Summary

State Effect: Minimal special fund revenue increase for the Maryland Insurance Administration (MIA) beginning in FY 2026 from PRA application fees. MIA can largely implement the bill using existing budgeted resources, as discussed below; however, special fund expenditures increase by an indeterminate but potentially significant amount for contractual services beginning in FY 2026 for compliance oversight, the cost of which may be passed on to carriers, PBMs, and PRAs under examination.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. "Carrier" means an insurer, nonprofit health service plan, health

maintenance organization, dental plan organization, or any other person that provides health benefit plans subject to regulation by the State.

A carrier, PBM, or PRA must ensure that:

- an AI, algorithm, or other software tool bases its determinations on an enrollee's medical or other clinical history, individual clinical circumstances as presented by a requesting provider, or other relevant clinical information;
- an AI, algorithm, or other software tool *does not* base its determinations solely on a group dataset;
- the criteria and guidelines for using an AI, algorithm, or other software tool for making determinations comply with the requirements of the Insurance Article;
- an AI, algorithm, or other software tool does not replace the role of a health care provider in the PRA process;
- the use of an AI, algorithm, or other software tool does not result in unfair discrimination;
- an AI, algorithm, or other software tool is fairly and equitably applied, including in accordance with any applicable federal regulations and guidance;
- an AI, algorithm, or other software tool is open to inspection for audit or compliance reviews by the Insurance Commissioner;
- specified written policies and procedures are included in the utilization review plan that a PRA must submit to the Commissioner;
- the performance, use, and outcomes of an AI, algorithm, or other software tool are reviewed and revised, if necessary and at least on a quarterly basis, to maximize accuracy and reliability;
- patient data is not used beyond its intended and stated purpose; and
- an AI, algorithm, or other software tool may not deny, delay, or modify health care services.

Current Law:

Adverse Decisions and Grievances Reporting

On a quarterly basis, each carrier must submit a report to the Commissioner that describes specified activities regarding appeals and grievances, including:

- the number of members entitled to health care benefits under a policy, plan, or certificate issued or delivered in the State by the carrier;
- the number of clean claims for reimbursement processed by the carrier;
- the outcome of each grievance filed with the carrier;

- the number and outcomes of cases that were considered emergency cases and subject to an expedited procedure;
- the time within which the carrier made a grievance decision on each case, including emergency and nonemergency cases;
- the number of grievances filed with the carrier that resulted from an adverse decision involving length of stay for inpatient hospitalization as related to the medical procedure involved; and
- the number of adverse decisions issued by the carrier for a nonemergency case and the type of service at issue in the adverse decisions.

The report must also describe the number and outcome of all other cases that resulted from an adverse decision involving the length of stay for inpatient hospitalization as related to the medical procedure involved.

The Commissioner must compile an annual summary report based on the information provided by carriers (and information provided by the Secretary of Health regarding health maintenance organizations) and provide copies of the summary report to the Governor and the General Assembly.

Examination by Commissioner

The Commissioner must conduct specified examinations of an insurer, a health maintenance organization, a PBM, and a PRA. The expense of these examinations must be paid by the person examined to cover the travel expenses, a living expense allowance, and a per diem as compensation for examiners, actuaries, and typists to the extent incurred for the examination and at reasonable rates set by the Commissioner.

State Revenues: Under the bill, PRAs must file new policies and procedures with their PRA applications. Each application is subject to a $1,500 filing fee. Thus, MIA special fund revenues increase by a minimal amount beginning in fiscal 2026 from new and renewal PRA filing fees.

State Expenditures: MIA must draft new regulations to provide guidance on how a policy or procedure complies with the bill and review additional PRA filings. MIA advises that promulgation of regulations and review of additional filings can be handled with existing budgeted resources. However, MIA must also audit or conduct compliance oversight of the AI, algorithm, or other software tools used by carriers, PBMs, and PRAs. MIA advises that it must hire or contract with subject matter experts to audit or conduct such compliance, which may have a significant cost. MIA is unable to quantify a cost associated with these contractual services at this time. However, MIA may be able to pass such costs on to those carriers, PBMs, and PRAs being examined.

Additional Comments: According to the National Association of Insurance Commissioners (NAIC), AI has the potential to impact the insurance industry in multiple ways. Claims management can be augmented using AI and machine learning techniques. In 2020, an NAIC Big Data and Artificial Intelligence Working Group developed regulatory guidance on AI that was adopted by the full NAIC membership.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2025
rh/ljm Third Reader - March 27, 2025
                                         Revised - Amendment(s) - March 27, 2025

Analysis by: Jennifer B. Chasse   Direct Inquiries to:
                                                      (410) 946-5510
                                                      (301) 970-5510