

Adopt Ins 2705 to read as follows:**PART Ins 2705 UNIFORM PRIOR AUTHORIZATION FORMS AND ELECTRONIC STANDARD FOR PRESCRIPTION DRUG BENEFITS**

Statutory Authority: RSA 400-A:15, I; RSA 420-E:4-a, III; and RSA 420-J:7-b, IV-c (c)

Ins 2705.01 Purpose. The purpose of these rules is to provide administrative simplification in the prior authorization process for prescription drugs and to encourage the use of electronic prior authorization technology.

Ins 2705.02 Scope.

(a) These rules shall apply to:

- (1) All health carriers, health maintenance organizations, health services corporations, and preferred provider programs in the state of New Hampshire in connection with managed care coverage governed by RSA 420-J or when using a utilization review entity subject to RSA 420-E;
- (2) Any pharmacy benefits manager with which any of the aforementioned entities contracts to perform prior authorization services for prescription drug benefits; and
- (3) All utilization review entities.

(b) These rules shall not apply to the Medicaid managed care program under RSA 126-A:5, XIX.

Ins 2705.03 Definitions. For the purpose of these rules:

(a) “Electronic prior authorization” (ePA) means prior authorization processes conducted through a web portal or any other electronic manner of transmission.

(b) “Health carrier” means “health carrier” as defined in RSA 420-G:2.

(c) “Health insurer” means those health insurance companies subject to this rule pursuant to Ins 2705.02(a)(1).

(d) “Health maintenance organization” means “health maintenance organization” as defined in RSA 420-B:1.

(e) “Health services corporation” means “health services corporation” as defined in RSA 420-A:1.

(f) “Pharmacy benefits manager” means a person who performs pharmacy benefits management services, including a person acting on behalf of a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management services for a covered entity. “Pharmacy benefits management” means the administration of prescription drug benefits provided by a covered entity under the terms and conditions of the contract between the pharmacy benefits manager and the covered entity and the provision of mail order pharmacy services.

(g) “Preferred provider program” means a program in which a health insurer contracts with or designates preferred providers as defined in RSA 420-C:2.

(h) “Prescribing provider” means any person who is lawfully entitled to prescribe, administer, dispense, or distribute prescription drugs to patients.

(i) “Prescription drug” means:

(1) A drug dispensed from a pharmacy directly to the consumer which, under federal law, is required, prior to being dispensed or delivered, to be labelled with any of the following statements:

- a. “Caution: federal law prohibits dispensing without prescription”;
- b. “Caution: federal law restricts this drug to use by or on the order of the licensed veterinarian”; or
- c. “RX only”; or

(2) A drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only and that is dispensed from a pharmacy directly to the consumer.

(j) “Prior authorization” means utilization review conducted prior to a patient’s service or course of treatment.

(k) “Uniform prior authorization forms” means the forms set forth in Ins 2705.04(a) and to be used by health insurers, pharmacy benefits managers, and utilization review entities for prior authorization of prescription drugs pursuant to RSA 420-J:7-b, IV-c (b) and RSA 420-E:4-a, II. “Uniform prior authorization forms” includes both the versions of the forms that are prepopulated pursuant to Ins 2705.04(c) and those that are not prepopulated.

(l) “Utilization review entity” means any person, partnership, or corporation which provides utilization review services subject to RSA 420-E.

Ins 2705.04 Content and Format of Uniform Prior Authorization Forms.

(a) The content and format of the uniform prior authorization forms shall be as set forth in Appendix I.

(b) Health insurers, pharmacy benefits managers, and utilization review entities shall reproduce and accept the uniform prior authorization form without changes except as provided in (c) below.

(c) Each health insurer, pharmacy benefits manager, and utilization review entity shall complete Section A “Destination” of the uniform prior authorization forms or ePA system prior to making the forms or system available and accessible on its website pursuant to Ins 2705.05(a).

Ins 2705.05 Use of Uniform Prior Authorization Forms and Electronic Standard for Prescription Drug Benefits.

(a) Each health insurer, pharmacy benefits manager, and utilization review entity shall make the version of the uniform prior authorization forms that it prepopulates pursuant to Ins 2705.04(c) available and accessible in a centralized location on its website.

(b) Except as provided in (c) below, health insurers, pharmacy benefits managers, and utilization review entities shall treat the information submitted via uniform prior authorization forms as sufficient information upon which a decision regarding the prior authorization request shall be made.

(1) Health insurers, pharmacy benefits managers, and utilization review entities shall not require prescribing providers to provide information in excess of the information required

on the uniform prior authorization forms.

(2) Health insurers, pharmacy benefits managers, and utilization review entities shall not:

a. Require or allow prescribing providers to submit information on a form other than the uniform prior authorization forms, even if the other form contains the same information as the uniform prior authorization forms; or

b. Require or request that prescribing providers submit any form or information in addition to the uniform prior authorization forms.

(c) Following receipt of uniform prior authorization forms that have been filled out and submitted, health insurers, pharmacy benefits managers, and utilization review entities may request that prescribing providers submit additional information to clarify information specifically requested on the uniform prior authorization forms only to the extent that:

(1) The prescribing provider provided information that conflicts with the records of the health insurer, pharmacy benefits manager, or utilization review entity; or

(2) The prescribing provider did not provide the information requested by the form, except that prescribing providers shall not be required to complete Section A “Destination” of the form or ePA system.

Ins 2705.06 Standards for Electronic Prior Authorization Processes.

(a) The information collected by health insurers, pharmacy benefits managers, and utilization review entities via electronic prior authorization processes shall be the same as the information collected via the uniform prior authorization forms, and the information shall be requested in the same manner as it is requested on the uniform prior authorization forms. Electronic prior authorization systems shall:

(1) Only ask the questions stated in the uniform prior authorization forms and ask those questions in the same order and manner as the uniform prior authorization forms, except that this shall not be construed to prohibit the use of electronic portals or systems in place of a paper or electronic form; and

(2) Require that questions be answered in the same manner as on the uniform prior authorization forms.

(b) Electronic prior authorization processes shall be completed via secure electronic transactions via secure electronic portals.

(c) Electronic prior authorization processes shall comply with all applicable state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996.

Ins 2705.07 Outreach to Prescribing Providers. Health insurers, pharmacy benefits managers, and utilization review entities shall educate contracted and other prescribing providers about the uniform prior authorization forms, including in partnership with membership organizations that represent those prescribing providers.

Appendix A

Rule	Statute or Federal Law
Ins 2705.01	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c (c)
Ins 2705.02	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c (c)
Ins 2705.03	RSA 400-A:15, I; 420-A:1; 420-B:1; R20-C:2; 420-E:4-a, II and III; 420-G:2; 420-J:7-b, IV-c (b) and (c)
Ins 2705.04	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c (c)
Ins 2705.05	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c
Ins 2705.06	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c ; Pub.L. 104-191, Stat. 1936
Ins 2705.07	RSA 400-A:15, I; 420-E:4-a, III; 420-J:7-b, IV-c