2026-20

RESOLUTION

Subject: Prohibiting Automated Adverse Benefit Determinations without Clinical Peer Review

Submitted by: Greater Louisville Medical Society

Referred to: Reference Committee

WHEREAS, commercial insurers are increasingly utilizing automated processing tools, including proprietary algorithms and artificial intelligence (AI), to systematically downcode or deny medical claims without clinical validation; and

WHEREAS, the Kentucky General Assembly successfully enacted historic prior authorization reform through House Bill 176 during the 2026 Regular Session, establishing a critical pathway for "Gold-Carding" exemptions based on a 93% clinical approval threshold; and

WHEREAS, the unchecked deployment of automated algorithms and artificial intelligence by insurance metrics can result in batch-denials of complex medical services, medical necessity determinations, and covered treatments arbitrarily reclassified as uncovered services without individual clinical variance review; and

WHEREAS, such automated adverse benefit determinations can artificially suppress a physician's approval rating, thereby subverting the legislative intent of HB 176 and blocking access to statutory exemptions; and

WHEREAS, the McCarran-Ferguson Act (15 U.S.C. §§ 1011-1015) establishes that the regulation of the "business of insurance" is reserved to the States, protecting Kentucky’s authority to define and enforce fair claims practices within its borders; and

WHEREAS, The United States Presidential Executive Order of December 11, 2025, seeks to promote national AI uniformity but does not supersede the State’s specific regulatory authority to protect policyholders and providers from bad faith insurance practices; and

WHEREAS, the requirement for clinical oversight in adverse benefit determinations is a matter of insurance contract enforcement and professional accountability, rather than the regulation of technology itself; and

WHEREAS, the American Medical Association (AMA) Policy H-480.939 entitled titled "Augmented Intelligence in Health Care," mandates that payor utilization of algorithmic systems to make claims determinations or set coverage limitations must be fully disclosed to the impacted parties and remain subordinate to physician control; and

WHEREAS, model state frameworks, such as the 2026 Illinois Transparency in Downcoding Act, have successfully established that downcoding decisions cannot be made solely by automated tools and must be verified by a licensed peer of the same or similar specialty; now, therefore, be it

RESOLVED, that KMA petition the Kentucky Department of Insurance to classify an "Automated Adverse Benefit Determination without Contemporaneous Human Review" as a per se violation of the Kentucky Unfair Claims Settlement Practices Act (KRS 304.12-230); and be it further

RESOLVED, that KMA seek legislative or regulatory requirements ensuring that any entity adjusting or downcoding a medical claim must maintain a verifiable audit trail proving that a Kentucky-licensed physician reviewed the relevant medical record and clinical documentation prior to the alteration of payment, thereby ensuring compliance with state clinical standards regardless of the technology employed; and be it further

RESOLVED, that KMA advocate for legislation and state regulatory rules in line with AMA policy that explicitly prohibit any health benefit plan from issuing an adverse benefit determination using automated, algorithmic, or artificial intelligence systems without providing the treating physician the opportunity for a documented, timely peer-to-peer clinical review with a clinical peer holding a valid, unrestricted license in the Commonwealth of Kentucky within the same or similar specialty.

**References:**

1. https://policysearch.ama-assn.org/policyfinder/detail/H-480.939?uri=%2FAMADoc%2FHOD.xml-H-480.939.xml
2. https://legiscan.com/IL/text/SB3114/id/3354237