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Gal Costa Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE HUMAN SERVICES
HB 1462

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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1462

House Human Services Committee

Conference Committee

Hearing Date February ⁵, 2003

Tape Number	Side A	Side B	Meter #
1	x		21.8 - 61.7
		x	0.0 - 31.8
Committee Clerk Signature <i>Sharon Kenyon</i>			

Minutes:

Rep. Scott Kelsh appeared as prime sponsor stating the reason for this bill as a message of giving a patient an option, if they are denied coverage by an HMO for a medically necessary procedure as determined by the primary care physician. This bill gives the patient an option of a second opinion.

Rep. Devlin noted that many things he's asking for in this bill are already in law.

John Risch, United Transportation Union Railroad Workers across the State appeared in support stating this is a good effort to reduce health costs and gives the option of a second opinion.

John W. Breen Jr. on behalf of himself appeared in support with written testimony as well as a copy of a Supreme Court Bench Opinion.

Rep. Porter asked about patient confidentiality and asked if he asked any patients that have talked to him about this for a medical release so that you could discuss the situations so we could get a better understanding if there truly is a problem. Answer: No, feels its client confidentiality.

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House Human Services Committee

Bill/Resolution Number HB 1462

Hearing Date February 5, 2003

Questions of the committee on what HMO's are involved. Answer: didn't ask. Did he know of anyone who has specifically brought a case or grievance against HMO's? Answer: Yes, but didn't bring any information. Also if the problem wouldn't go directly to the Insurance Commission and if that avenue was pursued. Answer; Didn't know, he directed them to the doctor.

Bruce Levi, ND Medical Assoc. appeared in support stating our association wasn't involved in the introduction of this bill, but we have a keen interest in the concept of independent review and expect to provide a couple of observations.

Rep. Price asked if what we have in law now, is it working?

Answer: Can't say whether there are specific problems now, but this would encourage physicians to be stronger advocates for patients in trying to address these issues.

Rep. Porter stated there is nothing here to pay back the HMO if after review of an appeal and found in favor of HMO. Answer; Doesn't know.

Rep. Porter also stated that you may have to go out of State to find a same type of doctor and that could be expensive, and wanted to know who pays for this?

Rep. Weisz: Could the Insurance Commissioner ask for an independent review? Answer: doesn't know.

Allan Matties, Heart of America HMO appeared in opposition with written testimony stating they have approx. 2300 membership.

Rep. Amerman asked sits on his grievance committee and can he bring an attorney to the hearing.

Answer: 7 members made up a surgeon, administrator of the hospital in Rugby and 5 consumer members and they can bring whoever they want to the hearing.

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House Human Services Committee
Bill/Resolution Number HB 1462
Hearing Date February 5, 2003

Rep. Porter asked about the number of grievances they've had in past years and what they consisted of: Answer: 2001 - no grievances, 2000 - 3 complaints and 1999 - 1 grievances

Vance Magnuson, ND Insurance Dept. appeared not opposing the concept for solving grievances, however as far as the bill is concerned I feel there are already procedures in place that currently provide for safeguards to members of HMO's. The way the bill is written it would not pertain to specialists, like cardiologists, radiologists, etc. There currently are procedures in place to address the concerns raised in this bill. Medical records are typically provided to the insurance department, we do get a release from the insured if they file a complaint with us and regulators are authorized to review these medical records, they are confidential under both federal and state law. For any appeal, those are required to be reviewed by a like physician (outside physician).

Under HIPAA, applies to all new health group benefit plans and in certain instances it will supersede our utilization review. The utilization review in ND would still pertain to individuals if there were individuals that had HMO coverage, however, the HMO's in ND do not actively write individual business.

Questions of the committee on if it could be costly to go through the grievance procedure and whether it was better to have legal counsel present with the individual. Also, how many complaints were filed with Medica.

Answer: no additional cost to go through grievance procedure, its up to the individual if they want to retain counsel and only 2 complaints with Medica, 1 in 2002 and 1 in 2001.

Closed the hearing.

Rep. Porter states this bill was a solution seeking a problem and feels Mr. Magnuson gave examples of how the process worked, we all got a good basis review of the patient protections

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House Human Services Committee

Bill/Resolution Number HB 1462

Hearin.g Date February 5, 2003

already in place and I can't disagree with the gentleman from Heart of America HMO that its discriminatory towards their organization, that its not dealing with other insurance companies and sees no purpose of having this legislation and moves a DO NOT PASS, second by Rep. Kreidt.

Rep. Price noted that HIPAA is going to regulate this.

Rep. Amerman & Rep. Sandvig disagrees and feels it should be given a do pass.

Rep. Wieland, Potter & Kreidt felt there was no demonstrated need for this and no evidence was produced stating there was a need.

Rep. Weisz stated this bill doesn't catch the fall through the cracks people because they have a grievance procedure & appeal process.

10 - 3 - 0 Rep. Pollert will carry the bill.

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Yolanda Richardson
Operator's Signature

10/16/03
Date

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Date: February ⁵, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1462

House _____ HUMAN SERVICES _____ Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____ DNP _____

Motion Made By Rep Porter Seconded By Rep Kreidt

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig		✓
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman		✓
Rep. Robin Weisz	✓		Rep. Carol Niemeier		✓
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter	✓				
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 10 No 3

Absent 0

Floor Assignment Rep. Pollert

If the vote is on an amendment, briefly indicate intent:

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La Costa Rickford Operator's Signature 10/6/03 Date

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 12:22 p.m.

Module No: HR-22-1705
Carrier: Pollert
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1462: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT**
PASS (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1462 was placed on
the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-22-1705

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Colista Richard
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10/6/03
Date

FR:

2003 TESTIMONY

HB 1462

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Yolanda Rickford
Operator's Signature

10/16/03
Date

717 Williams St.
Bismarck, ND 58501

February 5, 2002

Representatives of the North Dakota Legislature

Re: **Health care access and medical necessity**

Testimony of John W. Breen Jr.

Gentlemen and Gentlewomen,

I am pleased to testify in support of the bill introduced by Representative Kelsh. I am an attorney in Bismarck, but appear before you only as a citizen and a patient who holds a health care insurance policy.

Presently health care insurance policies in North Dakota unilaterally deny patients in ND medical coverage on this basis, that is, while the treatment is covered under the health policy, the health policy administrator can unilaterally find the recommended treatment is not medically necessary, and deny coverage.

The United States Supreme Court, recently, in **Rush Prudential HMO vs. Morgan** (June 2002) has changed this, but only if the state legislature enacts a statute that requires the independent medical review. In **Rush Prudential**, The Supreme Court upheld an Illinois statute, which requires an independent review, binding on the health insurer when the health insurer or HMO denies medical coverage as not medically necessary.

The residents of North Dakota do not have this protection, simply because it is not required by a state statute.

The Illinois statute 215 ILCS125/4/10 is a model and provides essentially as follows:

1. Each Health Maintenance Organization shall provide for timely review by an independent physician, jointly selected by the patient, the primary care physician and the H. M. O., in the event of a dispute regarding the medical necessity of a covered service.

