



317752

LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/08/2022 11:56 AM

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Senator Farmer moved the following:

Senate Amendment

Delete lines 58 - 128

and insert:

(a) The prescription drug is a non-opioid based analgesic drug product, and the insurer's step-therapy protocol would otherwise require the insured to be prescribed an opioid analgesic drug product or an abuse-deterrent opioid analgesic drug product; or

(b)1.(a) The insured has previously been approved to receive the prescription drug through the completion of a step-



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12 therapy protocol required by a separate health coverage plan;
13 and

14 2. ~~(b)~~ The insured provides documentation originating from
15 the health coverage plan that approved the prescription drug as
16 described in subparagraph 1. ~~paragraph (a)~~ indicating that the
17 health coverage plan paid for the drug on the insured's behalf
18 during the 90 days immediately before the request.

19 (3) (a) A health insurer shall publish on its website and
20 provide to an insured in writing a procedure for the insured and
21 his or her health care provider to request a protocol exemption
22 or an appeal of the health insurer's denial of a protocol
23 exemption request. The procedure must include, at a minimum:

24 1. The manner in which the insured or health care provider
25 may request a protocol exemption, including a form to request
26 the protocol exemption.

27 2. The manner and timeframe in which the health insurer
28 authorizes or denies a protocol exemption request, which must
29 occur within a reasonable time.

30 3. The manner and timeframe in which the insured or health
31 care provider may appeal the health insurer's denial of a
32 protocol exemption request.

33 (b) An authorization of a protocol exemption request must
34 specify the approved prescription drug, medical procedure, or
35 course of treatment. A denial of a protocol exemption request
36 must include a written explanation of the reason for the denial,
37 the clinical rationale that supports the denial, and the
38 procedure for appealing the health insurer's denial.

39 (c) A health insurer may request relevant medical records
40 in support of a protocol exemption request.



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41 ~~(4)-(3)~~ This section does not require a health insurer to
42 add a drug to its prescription drug formulary or to cover a
43 prescription drug that the insurer does not otherwise cover.

44 Section 2. Subsection (46) of section 641.31, Florida
45 Statutes, is amended to read:

46 641.31 Health maintenance contracts.—

47 ~~(46) (a)-(46) (b)~~ As used in this subsection, the term:

48 1. "Health coverage plan" means any of the following which
49 previously provided or is currently providing major medical or
50 similar comprehensive coverage or benefits to the subscriber:

51 ~~a.1-~~ A health insurer or health maintenance organization.~~†~~

52 ~~b.2-~~ A plan established or maintained by an individual
53 employer as provided by the Employee Retirement Income Security
54 Act of 1974, Pub. L. No. 93-406.~~†~~

55 ~~c.3-~~ A multiple-employer welfare arrangement as defined in
56 s. 624.437.~~† or~~

57 ~~d.4-~~ A governmental entity providing a plan of self-
58 insurance.

59 2. "Protocol exemption" means a determination by a health
60 maintenance organization to authorize the use of another
61 prescription drug, medical procedure, or course of treatment
62 prescribed or recommended by the treating health care provider
63 for the subscriber's condition rather than the one specified by
64 the health maintenance organization's step-therapy protocol.

65 3. "Step-therapy protocol" means a written protocol that
66 specifies the order in which certain prescription drugs, medical
67 procedures, or courses of treatment must be used to treat a
68 subscriber's condition.

69 ~~(b)-(a)~~ In addition to the protocol exemptions granted under



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70 paragraph (c), a health maintenance organization issuing major
71 medical coverage through an individual or group contract may not
72 require a step-therapy protocol under the contract for a covered
73 prescription drug requested by a subscriber if:

74 1. The prescription drug is a non-opioid based analgesic
75 drug product, and the health maintenance organization's step-
76 therapy protocol would otherwise require the subscriber to be
77 prescribed an opioid analgesic drug product or an abuse-
78 deterrent opioid analgesic drug product; or

79 2.a.1. The subscriber has previously been approved to
80 receive the prescription drug through the completion of a step-
81 therapy protocol required by a separate health coverage plan;
82 and

83 b.2. The subscriber provides documentation originating from
84 the health coverage plan that approved the prescription drug as
85 described in sub-subparagraph a. subparagraph 1. indicating that
86 the health coverage plan paid for the drug on the subscriber's
87 behalf during the 90 days immediately before the request.