LB1148
2024

LEGISLATURE OF NEBRASKA

ONE HUNDRED EIGHTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1148

Introduced by Hansen, 16.

Read first time January 11, 2024

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to insurance; to amend section 44-7,115, Reissue Revised Statutes of Nebraska; to change requirements relating to step-therapy as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

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Section 1. Section 44-7,115, Reissue Revised Statutes of Nebraska, is amended to read:

44-7,115 (1) A step-therapy override exception shall be approved by a health carrier or utilization review organization if any of the following circumstances apply:

(a) The prescription drug required under the step-therapy protocol is contraindicated pursuant to the drug manufacturer's prescribing information for the drug or, due to a documented adverse event with a previous use or a documented medical condition, including a comorbid condition, is likely to do any of the following:

(i) Cause an adverse reaction to the covered individual;

(ii) Decrease the ability of the covered individual to achieve or maintain reasonable functional ability in performing daily activities; or

(iii) Cause physical or mental harm to the covered individual;

(b) The prescription drug required under the step-therapy protocol is expected to be ineffective based on the known clinical characteristics of the covered person, such as the covered person's adherence to or compliance with the covered person's individual plan of care, and any of the following:

(i) The known characteristics of the prescription drug regimen as described in peer-reviewed literature or in the manufacturer's prescribing information for the drug;

(ii) The health care provider's medical judgment based on clinical practice guidelines or peer-reviewed journals; or

(iii) The covered person's documented experience with the prescription drug regimen;

(c) The covered person has had a trial of a therapeutically equivalent dose of the prescription drug under the step-therapy protocol while under the covered person's current or previous health benefit plan for a period of time to allow for a positive treatment outcome, and such prescription drug was discontinued by the covered person's health care

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provider due to lack of effectiveness; or

(d) The covered person is currently receiving a positive therapeutic outcome on a prescription drug selected by the covered person's health care provider for the medical condition under consideration while under the covered person's current or previous health benefit plan. Nothing in the Step-Therapy Reform Act shall prohibit the distribution of a pharmaceutical sample, except that the pharmaceutical sample may not be used to meet the requirements of this subdivision.

(2) Upon the approval of a step-therapy override exception, the health carrier or utilization review organization shall authorize coverage for the prescription drug selected by the covered person's prescribing health care provider if the prescription drug is a covered prescription drug under the covered person's health benefit plan.

(3) Except in the case of an urgent care request, a health carrier or utilization review organization shall make a determination to approve or deny a request for a step-therapy override exception within five calendar days after receipt of complete, clinically relevant written documentation supporting a step-therapy override exception under subsection (1) of this section. In the case of an urgent care request, a health carrier or utilization review organization shall approve or deny a request for a step-therapy override exception within seventy-two hours after receipt of such documentation. If a request for a step-therapy override exception is incomplete or additional clinically relevant information is required, the health carrier or utilization review organization may request such information within the applicable time period provided in this section. Once the information is submitted, the applicable time period for approval or denial shall begin again. If a health carrier or utilization review organization fails to respond to the request for a step-therapy override exception within the applicable time, the step-therapy override exception shall be deemed granted.

(4) If a request for a step-therapy override exception is denied,

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the health carrier or utilization review organization shall provide the covered person or the covered person's authorized representative and the covered person's prescribing health care provider with the reason for the denial and information regarding the procedure to request external review of the denial pursuant to the Health Carrier External Review Act. Any denial of a request for a step-therapy override exception that is upheld on an internal appeal shall be considered a final adverse determination for purposes of the Health Carrier External Review Act and is eligible for a request for external review by a covered person or the covered person's authorized representative pursuant to the Health Carrier External Review Act.

(5) This section shall not be construed to prevent:

(a) A health carrier or utilization review organization from requiring a pharmacist to effect substitutions of prescription drugs consistent with section 28-414.01, 38-28,111, or 71-2478;

(b) A health care provider from prescribing a prescription drug that is determined to be medically appropriate; or

(c) A health carrier or utilization review organization from requiring a covered person to try a prescription drug with the same generic name and demonstrated bioavailability, a biosimilar, or a biological product that is an interchangeable biological product pursuant to the Nebraska Drug Product Selection Act prior to providing coverage for the equivalent branded prescription drug.

(6) For purposes of this section, biosimilar has the same meaning as defined in 42 U.S.C. 262(i)(2) or interchangeable biological product as defined in 42 U.S.C. 262(i)(3).

Sec. 2. Original section 44-7,115, Reissue Revised Statutes of Nebraska, is repealed.