

ACT No. 312

Regular Session, 2013

HOUSE BILL NO. 393

BY REPRESENTATIVES ANDERS AND STUART BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Part XI of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:460.31 through 460.35, relative to the medical assistance program; to provide relative to managed care organizations which provide health care services to medical assistance program enrollees; to provide relative to prescription drugs; to provide for prepaid coordinated care network pharmaceutical and therapeutics committees; to provide for a standard form for the prior authorization of prescription drugs; to provide for certain procedures relative to step therapy and fail first protocols; to provide for promulgation of rules; to provide for exemptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XI of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:460.31 through 460.35, is hereby enacted to read as follows:

PART XI. MEDICAID MANAGED CARE PRESCRIPTION DRUG BENEFITS

§460.31. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(1) "Department" means the Department of Health and Hospitals.

(2) "Managed care organization" shall have the same meaning as provided for that term in 42 CFR 438.2 and shall also mean any entity providing primary care case management services to Medicaid recipients pursuant to a contract with the department.

1 (3) "Medicaid" and "medical assistance program" mean the medical
2 assistance program provided for in Title XIX of the Social Security Act.

3 (4) "Prepaid coordinated care network" means a private entity that contracts
4 with the department to provide Medicaid benefits and services to enrollees of the
5 Medicaid coordinated care program known as "Bayou Health" in exchange for a
6 monthly prepaid capitated amount per member.

7 (5) "Primary care case management" means a system in which an entity
8 contracts with the state to furnish case management services, which include but are
9 not limited to the location, coordination, and monitoring of primary health care
10 service to Medicaid beneficiaries.

11 (6) "Secretary" means the secretary of the Department of Health and
12 Hospitals.

13 §460.32. Prepaid coordinated care networks; pharmaceutical and therapeutics
14 committees

15 On or before January 1, 2014, each prepaid coordinated care network shall
16 form a body to be designated as a "Pharmaceutical and Therapeutics Committee"
17 which shall develop a drug formulary and preferred drug list for the prepaid
18 coordinated care network. Each Pharmaceutical and Therapeutics Committee
19 created pursuant to the provisions of this Section shall meet no less frequently than
20 semiannually in Baton Rouge, Louisiana. Such meetings shall be open to the public
21 and shall allow for public comment prior to voting by the committee on any change
22 in the preferred drug list or formulary.

23 §460.33. Prior authorization form; requirements

24 A. All managed care organizations shall accept, in addition to any currently
25 accepted facsimile and electronic prior authorization forms, a standard prior
26 authorization form, not to exceed two pages, excluding guidelines or instructions,
27 that has been duly promulgated by the department in accordance with the
28 Administrative Procedure Act. A health care provider may submit the prior
29 authorization form electronically if the managed care organization allows for
30 submission of the form in this manner.

1 B. The department shall promulgate rules and regulations prior to January
 2 1, 2014, that establish the form which shall be utilized by all managed care
 3 organizations. The department may consult with the managed care organizations as
 4 necessary in development of the prior authorization form.

5 §460.34. Step therapy; fail first protocols; requirements

6 A. Each managed care organization that utilizes step therapy or fail first
 7 protocols shall comply with the provisions of this Section.

8 B. When medications for the treatment of any medical condition are
 9 restricted for use by a managed care organization by a step therapy or fail first
 10 protocol, the prescribing physician shall be provided with and have access to a clear
 11 and convenient process to expeditiously request an override of such restriction from
 12 the managed care organization. The managed care organization shall expeditiously
 13 grant an override of such restriction under any of the following circumstances:

14 (1) The prescribing physician can demonstrate to the managed care
 15 organization, based on sound clinical evidence, that the preferred treatment required
 16 under step therapy or fail first protocol has been ineffective in the treatment of the
 17 Medicaid enrollee's disease or medical condition.

18 (2) The prescribing physician can demonstrate to the managed care
 19 organization, based on sound clinical evidence, that the preferred treatment required
 20 under the step therapy or fail first protocol will be expected to be ineffective based
 21 on the known relevant physical or mental characteristics and medical history of the
 22 Medicaid enrollee and known characteristics of the drug regimen.

23 (3) The prescribing physician can demonstrate to the managed care
 24 organization, based on sound clinical evidence, that the preferred treatment required
 25 under the step therapy or fail first protocol will cause or will likely cause an adverse
 26 reaction or other physical harm to the Medicaid enrollee.

27 C. The duration of any step therapy or fail first protocol shall not be longer
 28 than the duration of action for the medication as described in the pharmacokinetics
 29 section of the package insert approved by the United States Food and Drug

1 Administration when such treatment is demonstrated by the prescribing physician
2 to be clinically ineffective.

3 §460.35. Exemptions

4 The provisions of this Part shall not apply to any entity that contracts with the
5 department to provide fiscal intermediary services in processing claims of health care
6 providers.

7 Section 2. This Act shall become effective on January 1, 2014.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____