

Regular Session, 2011

SENATE BILL NO. 154

BY SENATOR MURRAY

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

HEALTH/ACC INSURANCE. Requires that certain health care coverage plans provide coverage for step therapy or fail first protocols. (8/15/11)

AN ACT

To amend and reenact R.S. 22:1053(A), (B), and (C), relative to health insurance; to provide for coverage of step therapy or fail first protocols; to provide for any health care coverage plan which includes prescription benefits as part of its policy or contract; to provide for the duration of step therapy or fail first protocol when treatment is deemed ineffective; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1053(A), (B), and (C) are hereby amended and reenacted to read as follows:

§1053. Requirement for coverage of step therapy or fail first protocols

A. Notwithstanding the provisions of R.S. 22:1047 to the contrary, any health care coverage plan specified in Subsection D of this Section **which includes prescription benefits as part of its policy or contract, which utilizes step therapy or fail first protocols, and** which is issued for delivery, delivered, renewed, or otherwise contracted for in this state on or after January 1, 2011, shall ~~provide coverage for step therapy or fail first protocols as provided in~~ **comply with the provisions of** this Section.

1 B. When medications for the treatment of any medical condition are restricted
2 for use by an insurer by a step therapy or fail first protocol, the prescribing physician
3 shall have access to a clear and convenient process to expeditiously request an
4 override of such restriction from the insurer. An override of such restriction shall be
5 expeditiously ~~considered~~ **granted** by the insurer under any of the following
6 circumstances:

7 (1) The prescribing physician can demonstrate **to the health coverage plan**,
8 based on sound clinical evidence, that the preferred treatment required under step
9 therapy or fail first protocol has been ineffective in the treatment of the insured's
10 disease or medical condition.

11 (2) The prescribing physician can demonstrate **to the health coverage plan**,
12 based on sound clinical evidence, that the preferred treatment required under the step
13 therapy or fail first protocol is **reasonably** expected to be ineffective based on the
14 known relevant physical or mental characteristics **and medical history** of the
15 insured and known characteristics of the drug regimen.

16 (3) The prescribing physician can demonstrate **to the health coverage plan**,
17 based on sound clinical evidence, that the preferred treatment required under the step
18 therapy or fail first protocol will cause or will likely cause an adverse reaction or
19 other physical harm to the insured.

20 C. The duration of any step therapy or fail first protocol shall not be longer
21 than the customary period for the medication when such treatment is ~~deemed~~
22 **demonstrated by the prescribing physician to be** clinically ineffective ~~by the~~
23 ~~prescribing physician~~. When the ~~prescribing physician~~ **health coverage plan** can
24 demonstrate, through sound clinical evidence, that the originally prescribed
25 medication is likely to require more than the customary period for such medication
26 to provide any relief or an amelioration to the insured, the step therapy or fail first
27 protocol may be extended for ~~a~~ **an additional** period of time ~~to be determined by the~~
28 ~~physician~~. **no longer than the original customary period for the medication.**

29 * * *

The original instrument was prepared by Cheryl Horne. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

Murray (SB 154)

Present law provides that any health care coverage plan which is issued for delivery, delivered, renewed, or otherwise contracted for in this state on or after January 1, 2011, shall provide coverage for step therapy or fail first protocols.

Proposed law retains present law and requires that any health care coverage plan which includes prescription benefits as part of its policy or contract, which utilizes step therapy or fail first protocols, comply with the provisions of law.

Present law provides that when medications for the treatment of any medical condition are restricted for use by an insurer by a step therapy or fail first protocol, the prescribing physician shall have access to a clear and convenient process to request an override of the restriction. Further provides that an override of such restriction shall be expeditiously considered by the insurer under certain circumstances.

Proposed law retains present law but provides that an override of such restriction shall be expeditiously granted by the insurer under certain circumstances.

Present law provides several circumstances in which a prescribing physician may demonstrate why a request for an restriction override is necessary for a patient.

Proposed law retains present law and clarifies that the circumstances demonstrated by the prescribing physician are to be submitted to the health coverage plan.

Present law provides a circumstance in which the prescribing physician can request an override of a restriction, when the treatment is expected to be ineffective, based on the known relevant physical or mental characteristics of the insured and known characteristics of the drug regimen.

Proposed law adds provision that the prescribing physician demonstrate that the preferred treatment is reasonably expected to be ineffective based on the patient's medical history.

Present law provides that the duration of any step therapy or fail first protocol shall not be longer than the customary period for the medication when such treatment is deemed clinically ineffective by the prescribing physician.

Proposed law revises present law to require such treatment to be demonstrated by the prescribing physician to be clinically ineffective.

Present law requires the prescribing physician to demonstrate that the originally prescribed medication is likely to require more than the customary time for relief or amelioration of the condition to the insured. Further provides that in such cases the treatment may be extended for a period of time to be determined by the physician.

Proposed law changes present law by requiring the health coverage plan (instead of the prescribing physician) to demonstrate that the medication will require more time to correct the insured's condition. Proposed law further changes present law by providing that treatment in such cases may be extended from a period of time to be determined by the physician to an additional period of time no longer than the original customary period for the medication.

Effective August 15, 2011.

(Amends R.S. 22:1053(A)(B) and (C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill.

1. Requires an override of a restriction for step therapy or fail first protocol be granted by the insurer under certain circumstances.

Senate Floor Amendments to engrossed bill.

1. Specifies that when the prescribing physician duty is to demonstrate certain circumstances, such information is to be submitted to the health coverage plan.
2. Adds the provision that the prescribing physician demonstrate that the preferred treatment is reasonably expected to be ineffective based on the patient's medical history.
3. Changes the prescribing physician role in determining if a step therapy or fail first protocol is ineffective from deeming it to be ineffective to demonstrating that the treatment is ineffective.
4. Changes the length of time a step therapy or fail first protocol treatment may be extended from a period of time to be determined by the physician to an additional period no longer than the original customary period for the medication.