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.

MEDICAID: Provides relative to prescription drug benefits of certain managed care organizations participating in the La. Medicaid coordinated care network program

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.

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

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

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

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

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

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

§460.33. Prior authorization form; requirements

A. Beginning January 1, 2014, all managed care organizations shall utilize a two-page prior authorization form, excluding guidelines or information, duly promulgated by the department in accordance with the Administrative Procedure Act.

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

§460.34. Step therapy; fail first protocols; requirements

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

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

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

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

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

C. The duration of any step therapy or fail first protocol shall not be longer in duration than the customary period for the medication when such treatment is demonstrated by the prescribing physician to be clinically ineffective. When the managed care organization can demonstrate, through sound clinical evidence, that

the originally prescribed medication is likely to require more than the customary period for such medication to provide any relief or an amelioration to the Medicaid enrollee, the step therapy or fail first protocol may be extended for an additional period of time no longer than the original customary period for the medication.

§460.35. Exemptions

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

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Anders HB No. 393

Abstract: Provides relative to prescription drug benefits of managed care organizations participating in the La. Medicaid coordinated care network program.

Proposed law defines "prepaid coordinated care network" as a private entity that contracts with the department to provide Medicaid benefits and services to enrollees of the Medicaid coordinated care program known as "Bayou Health" in exchange for a monthly prepaid capitated amount per member.

Proposed law requires each prepaid coordinated care network to form a pharmaceutical and therapeutics committee which shall develop a drug formulary and preferred drug list for the prepaid coordinated care network. Provides that such committees shall:

(1) Meet no less frequently than semiannually in Baton Rouge.

(2) Make such meetings open to the public.

(3) Allow for public comment at such meetings prior to voting by the committee on any change in the preferred drug list or formulary.

Proposed law requires, beginning Jan. 1, 2014, that all managed care organizations participating in the La. Medicaid program utilize a two-page prior authorization form to be issued by DHH. Requires DHH to promulgate rules and regulations that establish the form, and authorizes DHH to consult with the managed care organizations as necessary in development of the form.

Proposed law requires that each managed care organization which utilizes step therapy or fail first protocols comply with the provisions of proposed law.

Proposed law provides that when medications are restricted for use by a managed care organization by a step therapy or fail first protocol, the prescribing physician shall be provided with and have access to a clear and convenient process to expeditiously request an

override of such restriction from the managed care organization. Requires the managed care organization to expeditiously grant an override of such restriction under any of the following circumstances:

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

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

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

Proposed law provides that the duration of any step therapy or fail first protocol shall not be longer in duration than the customary period for the medication when such treatment is demonstrated by the prescribing physician to be clinically ineffective. Provides that when the managed care organization can demonstrate, through sound clinical evidence, that the originally prescribed medication is likely to require more than the customary period for such medication to provide any relief or an amelioration to the Medicaid enrollee, the step therapy or fail first protocol may be extended for an additional period of time no longer than the original customary period for the medication.

Proposed law provides that provisions of proposed law shall not apply to any entity that contracts with DHH to provide fiscal intermediary services in processing claims of health care providers.

Effective Jan. 1, 2014.

(Adds R.S. 46:460.31-460.35)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Deleted provisions creating and specifying functions of a Medicaid Managed Care Pharmaceutical and Therapeutics Committee.

2. Deleted requirement that all managed care organizations provide as a pharmacy benefit the minimum drug pharmacopoeia in conjunction with a prior approval process developed and maintained by the Medicaid Managed Care Pharmaceutical and Therapeutics Committee.

3. Added "prepaid coordinated care network" as a defined term, defining such term as a private entity that contracts with the department to provide Medicaid benefits and services to enrollees of the Medicaid coordinated care program known as "Bayou Health" in exchange for a monthly prepaid capitated amount per member.

4. Added provisions requiring each prepaid coordinated care network to form a pharmaceutical and therapeutics committee which shall develop a drug formulary

and preferred drug list for the prepaid coordinated care network. Provided that such committees are subject to the following requirements:

(a) Meet no less frequently than semiannually in Baton Rouge.

(b) Make such meetings open to the public.

(c) Allow for public comment at such meetings prior to voting by the committee on any change in the preferred drug list or formulary.

5. Changed prescribed page length for the prior authorization form provided for in proposed law from one page to two pages.

6. Added an exemption from provisions of proposed law for any entity that contracts with DHH to provide fiscal intermediary services in processing claims of health care providers.

7. Changed effective date of proposed law from date of signature by the governor or lapse of time for gubernatorial action to Jan. 1, 2014.

8. Made technical changes.