S-3467.1

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**SENATE BILL 5794**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Dhingra, Kuderer, Frockt, Hasegawa, Lovelett, Randall, Van De Wege, and C. Wilson

AN ACT Relating to continuity of coverage for prescription drugs prescribed for the treatment of behavioral health conditions; amending RCW 41.05.017; adding a new section to chapter 48.43 RCW; and adding a new section to chapter 74.09 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for health plans that include prescription drug coverage issued or renewed on or after January 1, 2023, a health carrier may not, outside of an open enrollment period, deny continued coverage or increase the copayment or coinsurance amount for a prescription drug used for the assessment or treatment of a mental health condition to a medically stable enrollee if a participating provider continues to prescribe the drug, if the drug is considered safe and effective for treating the enrollee's medical condition, and if:

(a) The drug had previously been covered by the plan for the enrollee's medical condition during the enrollee's current plan year; or

(b) The enrollee had been prescribed the drug from their prescribing provider for at least 90 days prior to enrollment in the plan.

(2) Nothing in this section prohibits:

(a) The carrier from requiring generic substitution during the current plan year;

(b) The carrier from adding new drugs to its formulary during the current plan year, as long as the changed formulary applies only to new prescriptions and not existing prescriptions in violation of subsection (1) of this section;

(c) The carrier from removing a drug from its formulary for reasons of patient safety concerns, drug recall or removal from the market, or medical evidence indicating no therapeutic effect of the drug; or

(d) A participating provider from prescribing a different drug that is covered by the plan and medically appropriate for the enrollee.

**Sec.**  RCW 41.05.017 and 2021 c 280 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128, section 1 of this act, and chapter 48.49 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) Beginning January 1, 2023, the authority may not require prescription drug utilization management for prescription drugs necessary for the treatment of mental health conditions if the drug was dispensed to the enrollee during the previous 365 days and the enrollee is medically stable on the drug.

(2) For the purposes of this section, "prescription drug utilization management" has the same meaning as in RCW 48.43.400.

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