

SSB 5300 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED 04/06/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
4 RCW to read as follows:

5 (1) Except as provided in subsection (2) of this section, for
6 health plans that include prescription drug coverage issued or
7 renewed on or after January 1, 2025, a health carrier or its health
8 care benefit manager may not require the substitution of a
9 nonpreferred drug with a preferred drug in a given therapeutic class,
10 or increase an enrollee's cost-sharing obligation mid-plan year for
11 the drug, if the prescription is for a refill of an antipsychotic,
12 antidepressant, antiepileptic, or other drug prescribed to the
13 enrollee to treat a serious mental illness, the enrollee is medically
14 stable on the drug, and a participating provider continues to
15 prescribe the drug.

16 (2) Nothing in this section prohibits:

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

19 (b) The carrier from adding new drugs to its formulary during the
20 current plan year;

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

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

28 (3) For the purposes of this section:

29 (a) "Refill" means a second or subsequent filling of a previously
30 issued prescription.

1 (b) "Serious mental illness" means a mental disorder, as defined
2 in the most recent edition of the diagnostic and statistical manual
3 of mental disorders published by the American psychiatric
4 association, that results in serious functional impairment that
5 substantially interferes with or limits one or more major life
6 activities.

7 **Sec. 2.** RCW 69.41.190 and 2011 1st sp.s. c 15 s 80 are each
8 amended to read as follows:

9 (1)(a) Except as provided in subsection (2) of this section, any
10 pharmacist filling a prescription under a state purchased health care
11 program as defined in RCW 41.05.011(~~((2))~~) shall substitute, where
12 identified, a preferred drug for any nonpreferred drug in a given
13 therapeutic class, unless the endorsing practitioner has indicated on
14 the prescription that the nonpreferred drug must be dispensed as
15 written, or the prescription is for a refill of an antipsychotic,
16 antidepressant, antiepileptic, or other drug prescribed to the
17 patient to treat a serious mental illness, chemotherapy,
18 antiretroviral, or immunosuppressive drug, or for the refill of a
19 immunomodulator/antiviral treatment for hepatitis C for which an
20 established, fixed duration of therapy is prescribed for at least
21 (~~((twenty-four))~~) 24 weeks but no more than (~~((forty-eight))~~) 48 weeks,
22 in which case the pharmacist shall dispense the prescribed
23 nonpreferred drug.

24 (b) When a substitution is made under (a) of this subsection, the
25 dispensing pharmacist shall notify the prescribing practitioner of
26 the specific drug and dose dispensed.

27 (2)(a) A state purchased health care program may impose limited
28 restrictions on an endorsing practitioner's authority to write a
29 prescription to dispense as written only under the following
30 circumstances:

31 (i) There is statistical or clear data demonstrating the
32 endorsing practitioner's frequency of prescribing dispensed as
33 written for nonpreferred drugs varies significantly from the
34 prescribing patterns of his or her peers;

35 (ii) The medical director of a state purchased health program
36 has: (A) Presented the endorsing practitioner with data that
37 indicates the endorsing practitioner's prescribing patterns vary
38 significantly from his or her peers, (B) provided the endorsing
39 practitioner an opportunity to explain the variation in his or her

1 prescribing patterns to those of his or her peers, and (C) if the
2 variation in prescribing patterns cannot be explained, provided the
3 endorsing practitioner sufficient time to change his or her
4 prescribing patterns to align with those of his or her peers; and

5 (iii) The restrictions imposed under (a) of this subsection (2)
6 must be limited to the extent possible to reduce variation in
7 prescribing patterns and shall remain in effect only until such time
8 as the endorsing practitioner can demonstrate a reduction in
9 variation in line with his or her peers.

10 (b) A state purchased health care program may immediately
11 designate an available, less expensive, equally effective generic
12 product in a previously reviewed drug class as a preferred drug,
13 without first submitting the product to review by the pharmacy and
14 therapeutics committee established pursuant to RCW 70.14.050.

15 (c) For a patient's first course of treatment within a
16 therapeutic class of drugs, a state purchased health care program may
17 impose limited restrictions on endorsing practitioners' authority to
18 write a prescription to dispense as written, only under the following
19 circumstances:

20 (i) There is a less expensive, equally effective therapeutic
21 alternative generic product available to treat the condition;

22 (ii) The drug use review board established under WAC 388-530-4000
23 reviews and provides recommendations as to the appropriateness of the
24 limitation;

25 (iii) Notwithstanding the limitation set forth in (c)(ii) of this
26 subsection (2), the endorsing practitioner shall have an opportunity
27 to request as medically necessary, that the brand name drug be
28 prescribed as the first course of treatment;

29 (iv) The state purchased health care program may provide, where
30 available, prescription, emergency room, diagnosis, and
31 hospitalization history with the endorsing practitioner; and

32 (v) Specifically for antipsychotic restrictions, the state
33 purchased health care program shall effectively guide good practice
34 without interfering with the timeliness of clinical decision making.
35 Health care authority prior authorization programs must provide for
36 responses within (~~twenty-four~~) 24 hours and at least a (~~seventy-~~
37 ~~two~~) 72 hour emergency supply of the requested drug.

38 (d) If, within a therapeutic class, there is an equally effective
39 therapeutic alternative over-the-counter drug available, a state

1 purchased health care program may designate the over-the-counter drug
2 as the preferred drug.

3 (e) A state purchased health care program may impose limited
4 restrictions on endorsing practitioners' authority to prescribe
5 pharmaceuticals to be dispensed as written for a purpose outside the
6 scope of their approved labels only under the following
7 circumstances:

8 (i) There is a less expensive, equally effective on-label product
9 available to treat the condition;

10 (ii) The drug use review board established under WAC 388-530-4000
11 reviews and provides recommendations as to the appropriateness of the
12 limitation; and

13 (iii) Notwithstanding the limitation set forth in (e)(ii) of this
14 subsection (2), the endorsing practitioner shall have an opportunity
15 to request as medically necessary, that the drug be prescribed for a
16 covered off-label purpose.

17 (f) The provisions of this subsection related to the definition
18 of medically necessary, prior authorization procedures and patient
19 appeal rights shall be implemented in a manner consistent with
20 applicable federal and state law.

21 (3) Notwithstanding the limitations in subsection (2) of this
22 section, for refills for an antipsychotic, antidepressant,
23 antiepileptic, or other drug prescribed to the patient to treat a
24 serious mental illness, chemotherapy, antiretroviral, or
25 immunosuppressive drug, or for the refill of an immunomodulator
26 antiviral treatment for hepatitis C for which an established, fixed
27 duration of therapy is prescribed for at least (~~twenty-four~~) 24
28 weeks by no more than (~~forty-eight~~) 48 weeks, the pharmacist shall
29 dispense the prescribed nonpreferred drug.

30 (4) For the purposes of this section, "serious mental illness"
31 means a mental disorder, as defined in the most recent edition of the
32 diagnostic and statistical manual of mental disorders published by
33 the American psychiatric association, that results in serious
34 functional impairment that substantially interferes with or limits
35 one or more major life activities.

36 NEW SECTION. Sec. 3. Section 2 of this act takes effect January
37 1, 2025."

38 Correct the title.

EFFECT: Applies the requirements for health carriers to the health carrier's health care benefit manager.

Adds a definition for "refill."

Adds the definition of "serious mental illness" to the provisions related to state purchased health care programs.

Makes technical language changes by changing references to enrollees to patients in the provisions related to state purchased health care programs.

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