

**ESSB 6127** - H COMM AMD

By Committee on Health Care & Wellness

**ADOPTED 02/27/2024**

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 70.41  
4 RCW to read as follows:

5 (1) A hospital must adopt a policy and have procedures in place,  
6 that conform with the guidelines issued by the centers for disease  
7 control and prevention, for the dispensing of human immunodeficiency  
8 virus postexposure prophylaxis drugs or therapies.

9 (2) This policy must ensure that hospital staff dispense or  
10 deliver as defined in RCW 18.64.011 to a patient, with a patient's  
11 informed consent, a 28-day supply of human immunodeficiency virus  
12 postexposure prophylaxis drugs or therapies following the patient's  
13 possible exposure to human immunodeficiency virus, unless medically  
14 contraindicated, inconsistent with accepted standards of care, or  
15 inconsistent with centers for disease control and prevention  
16 guidelines. When available, hospitals shall dispense or deliver  
17 generic human immunodeficiency virus postexposure prophylaxis drugs  
18 or therapies.

19 (3) Nothing in this section shall be construed to alter the  
20 coverage for reimbursement of postexposure prophylaxis drugs through:

21 (a) The crime victims' compensation program, established in  
22 chapter 7.68 RCW, for drugs dispensed or delivered to sexual assault  
23 victims; or

24 (b) The industrial insurance act for drugs dispensed or delivered  
25 to a worker exposed to the human immunodeficiency virus through the  
26 course of employment.

27 **Sec. 2.** RCW 70.41.480 and 2022 c 25 s 1 are each amended to read  
28 as follows:

29 (1) The legislature finds that high quality, safe, and  
30 compassionate health care services for patients of Washington state

1 must be available at all times. The legislature further finds that  
2 there is a need for patients being released from hospital emergency  
3 departments to maintain access to emergency medications when  
4 community or hospital pharmacy services are not available, including  
5 medication for opioid overdose reversal and for the treatment for  
6 opioid use disorder as appropriate. It is the intent of the  
7 legislature to accomplish this objective by allowing practitioners  
8 with prescriptive authority to prescribe limited amounts of  
9 prepackaged emergency medications to patients being discharged from  
10 hospital emergency departments when access to community or outpatient  
11 hospital pharmacy services is not otherwise available.

12 (2) A hospital may allow a practitioner to prescribe prepackaged  
13 emergency medications and allow a practitioner or a registered nurse  
14 licensed under chapter 18.79 RCW to distribute prepackaged emergency  
15 medications to patients being discharged from a hospital emergency  
16 department in the following circumstances:

17 (a) During times when community or outpatient hospital pharmacy  
18 services are not available within 15 miles by road; ((~~or~~))

19 (b) When, in the judgment of the practitioner and consistent with  
20 hospital policies and procedures, a patient has no reasonable ability  
21 to reach the local community or outpatient pharmacy; or

22 (c) When a patient is identified as needing human  
23 immunodeficiency virus postexposure prophylaxis drugs or therapies.

24 (3) A hospital may only allow this practice if: The director of  
25 the hospital pharmacy, in collaboration with appropriate hospital  
26 medical staff, develops policies and procedures regarding the  
27 following:

28 (a) Development of a list, preapproved by the pharmacy director,  
29 of the types of emergency medications to be prepackaged and  
30 distributed;

31 (b) Assurances that emergency medications to be prepackaged  
32 pursuant to this section are prepared by a pharmacist or under the  
33 supervision of a pharmacist licensed under chapter 18.64 RCW;

34 (c) Development of specific criteria under which emergency  
35 prepackaged medications may be prescribed and distributed consistent  
36 with the limitations of this section;

37 (d) Assurances that any practitioner authorized to prescribe  
38 prepackaged emergency medication or any nurse authorized to  
39 distribute prepackaged emergency medication is trained on the types

1 of medications available and the circumstances under which they may  
2 be distributed;

3 (e) Procedures to require practitioners intending to prescribe  
4 prepackaged emergency medications pursuant to this section to  
5 maintain a valid prescription either in writing or electronically in  
6 the patient's records prior to a medication being distributed to a  
7 patient;

8 (f) Establishment of a limit of no more than a 48 hour supply of  
9 emergency medication as the maximum to be dispensed to a patient,  
10 except when community or hospital pharmacy services will not be  
11 available within 48 hours(~~(. In no case may the policy allow a supply~~  
12 ~~exceeding 96 hours be dispensed)~~), or when antibiotics or human  
13 immunodeficiency virus postexposure prophylaxis drugs or therapies  
14 are required;

15 (g) Assurances that prepackaged emergency medications will be  
16 kept in a secure location in or near the emergency department in such  
17 a manner as to preclude the necessity for entry into the pharmacy;  
18 and

19 (h) Assurances that nurses or practitioners will distribute  
20 prepackaged emergency medications to patients only after a  
21 practitioner has counseled the patient on the medication.

22 (4) The delivery of a single dose of medication for immediate  
23 administration to the patient is not subject to the requirements of  
24 this section.

25 (5) Nothing in this section restricts the authority of a  
26 practitioner in a hospital emergency department to distribute opioid  
27 overdose reversal medication under RCW 69.41.095.

28 (6) A practitioner or a nurse in a hospital emergency department  
29 must dispense or distribute opioid overdose reversal medication in  
30 compliance with RCW 70.41.485.

31 (7) For purposes of this section:

32 (a) "Emergency medication" means any medication commonly  
33 prescribed to emergency department patients, including those drugs,  
34 substances or immediate precursors listed in schedules II through V  
35 of the uniform controlled substances act, chapter 69.50 RCW, as now  
36 or hereafter amended.

37 (b) "Distribute" means the delivery of a drug or device other  
38 than by administering or dispensing.

39 (c) "Opioid overdose reversal medication" has the same meaning as  
40 provided in RCW 69.41.095.

1 (d) "Practitioner" means any person duly authorized by law or  
2 rule in the state of Washington to prescribe drugs as defined in RCW  
3 18.64.011(29).

4 (e) "Nurse" means a registered nurse or licensed practical nurse  
5 as defined in chapter 18.79 RCW.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43  
7 RCW to read as follows:

8 (1) Except as provided in subsection (2) of this section, for  
9 nongrandfathered health plans issued or renewed on or after January  
10 1, 2025, a health carrier may not impose cost sharing or require  
11 prior authorization for the drugs that comprise at least one regimen  
12 recommended by the centers for disease control and prevention for  
13 human immunodeficiency virus postexposure prophylaxis.

14 (2) For a health plan that is offered as a qualifying health plan  
15 for a health savings account, the health carrier must establish the  
16 plan's cost sharing for the coverage required by this section at the  
17 minimum level necessary to preserve the enrollee's ability to claim  
18 tax exempt contributions and withdrawals from the enrollee's health  
19 savings account under the internal revenue service laws and  
20 regulations.

21 (3) Notwithstanding the coverage requirements of this section, a  
22 health plan shall reimburse a hospital that bills for a 28-day supply  
23 of any human immunodeficiency virus postexposure prophylaxis drugs or  
24 therapies dispensed or delivered to a patient in the emergency  
25 department for take-home use, pursuant to section 1 of this act, as a  
26 separate reimbursable expense. This reimbursable expense is separate  
27 from any bundled payment for emergency department services.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09  
29 RCW to read as follows:

30 (1) The authority and all medicaid contracted managed care  
31 organizations shall provide coverage without prior authorization for  
32 the drugs that comprise at least one regimen recommended by the  
33 centers for disease control and prevention for human immunodeficiency  
34 virus postexposure prophylaxis.

35 (2) Notwithstanding the coverage requirements of this section,  
36 the authority or a medicaid contracted managed care organization  
37 shall reimburse a hospital that bills for a 28-day supply of any  
38 human immunodeficiency virus postexposure prophylaxis drugs or

1 therapies dispensed or delivered to a patient in the emergency  
2 department for take-home use, pursuant to section 1 of this act, as a  
3 separate reimbursable expense. This reimbursable expense is separate  
4 from any bundled payment for emergency department services.

5 **Sec. 5.** RCW 41.05.017 and 2022 c 236 s 3, 2022 c 228 s 2, and  
6 2022 c 10 s 2 and are each reenacted and amended to read as follows:

7 Each health plan that provides medical insurance offered under  
8 this chapter, including plans created by insuring entities, plans not  
9 subject to the provisions of Title 48 RCW, and plans created under  
10 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,  
11 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,  
12 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,  
13 48.43.780, 48.43.435, 48.43.815, section 3 of this act, and chapter  
14 48.49 RCW.

15 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2025."

16 Correct the title.

EFFECT: Modifies the requirement for hospitals to dispense or deliver postexposure prophylaxis (PEP) drugs or therapies and the corresponding reimbursement provisions from a five-day supply to a 28-day supply.

Modifies the circumstances in which a hospital is not required to dispense postexposure prophylaxis drugs or therapies by replacing "when inconsistent with care and treatment standards" with "when inconsistent with accepted standards of care."

Applies the prior authorization prohibition and the requirement to separately reimburse hospitals for dispensing PEP to the Health Care Authority.

Defines "dispense" and "deliver."

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