

SENATE BILL REPORT

SB 5782

As Reported by Senate Committee On:
Health Care, February 16, 2017

Title: An act relating to restricting the use of step therapy by public and private insurers for drugs used in mental health treatment.

Brief Description: Restricting the use of step therapy by public and private insurers for drugs used in mental health treatment.

Sponsors: Senators Rivers and Mullet.

Brief History:

Committee Activity: Health Care: 2/16/17, 2/16/17 [DPS-WM, w/oRec].

Brief Summary of Substitute Bill

- Establishes limitations for regulated health plans, state employee health plans and Medicaid coverage, and the application of step therapy for mental health prescriptions.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: That Substitute Senate Bill No. 5782 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Rivers, Chair; Becker, Vice Chair; Bailey, Conway, Fain, Miloscia, Mullet, O'Ban and Walsh.

Minority Report: That it be referred without recommendation.

Signed by Senators Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Keiser.

Staff: Mich'l Needham (786-7442)

Background: The 2003 Legislature created an evidence-based prescription drug program for state agencies that purchase prescription drugs directly or through reimbursement to pharmacies. The program uses a preferred drug list (PDL) which is a list of prescription drug

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

classes that have gone through an evidence-based review process to determine the safety, efficacy, and effectiveness of drug classes.

Washington State contracts with the Center for Evidence-Based Policy, Oregon Health and Science University, to independently review drug classes. Their recommendations are reviewed by the Washington State Pharmacy and Therapeutics (P&T) Committee, an independent group of pharmacy doctors and medical doctors, which then makes recommendations regarding the preferred drugs on the PDL.

Programs participating in the PDL include the Uniform Medical Plan, the Department of Labor and Industries, and Medicaid fee for service. Managed care plans offering Medicaid coverage and Public Employees Benefits Board (PEBB) coverage maintain their own lists of drugs and purchase separately.

A pharmacist filling a prescription under a state purchased health care program using the preferred drug list may substitute a preferred drug for any non-preferred drug in a given therapeutic class, unless the prescription must be dispensed as written, or the prescription is a refill of an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug.

Many health plans, including Medicare prescription drug plans, apply various forms of medical management standards in their benefit design, including the use of prior authorization or step therapy requirements for certain medications. Step therapy may require patient try a less expensive drug on the plan's formulary or preferred drug list that has been proven effective for people with a specified medical condition before moving up a step to a more expensive drug.

The federal Mental Health Parity and Addiction Equity Act, and the federal Patient Protection and Affordable Care Act, established requirements for health plans that provide mental health or substance abuse disorder benefits that prevent plans from imposing less favorable benefit limitations on those benefits than on medical/surgical benefits. The federal regulations allow plans to use non-quantitative treatment limits such as step therapy, and formulary design but only to the extent that any limitations imposed for mental health or substance use disorder benefits have the same standards or processes as are used in applying the treatment limitations to other medical/surgical benefits.

Summary of Bill (First Substitute): Beginning July 1, 2018, regulated health plans, health plans offered to state employees, and Medicaid may only make use of step therapy for medications for the treatment of mental illness under the following conditions:

1. They may require a first attempt treatment using one particular drug covered by the plan unless the prescribing provider demonstrates the patient has already tried and failed on the first attempt treatment drug, or a drug in the same pharmacologic class, in which case they must provide immediate coverage for the prescribed drug.
2. Following use of the first attempt drug, the plan must provide immediate coverage for the prescribed drug if the provider determines that the first attempt drug must be discontinued, is contraindicated or will likely cause an adverse reaction, is expected to be ineffective, or is not in the best interest of the patient.

The requirement does not apply if a free sample of a medication has been provided to the patient.

Step therapy means a program establishing the specific sequence in which medically appropriate prescription drugs are covered. Step therapy does not include substituting a generic drug for the prescribed drug.

Mental health medications means stimulants, antidepressants, antipsychotics, mood stabilizers, and anti-anxiety agents.

EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (First Substitute):

- Clarifies the policy does not apply if a free sample of a medication has been provided to the patient.

Appropriation: None.

Fiscal Note: Requested on February 9, 2017.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: It is critical for patients that become stabilized on a medication to have the opportunity to continue that treatment. The provider relationship with the patient is central and insurance carriers use step therapy to override the prescriber's recommendation for the best treatment. Any medication deemed medically necessary should be covered by the plan without additional barriers that can be detrimental to the patient.

CON: It is offensive to suggest that insurance carriers are not interested in ensuring the patient has access to a safe and effective drug. We want the patient to access a safe and effective medication and we believe that cost effectiveness should be part of the consideration. There are a variety of therapeutically equivalent agents that can be utilized and they should be considered. We have a concern that manufacturers are providing free samples that get patients started on more expensive drugs that circumvent the step therapy and we request an amendment to clarify that free samples should not impact the policy goal of the bill.

OTHER: We have one suggestion for a clarification in section 2 where we believe there is an inconsistency with the language regarding generics. It makes sense to try generics first and allow providers to prescribe what is appropriate if that doesn't work.

Persons Testifying: PRO: Senator Ann Rivers, Prime Sponsor; Kathryn Kolan, Washington State Medical Association.

CON: Mel Sorensen, America's Health Insurance Plans.

OTHER: Seth Dawson, National Alliance on Mental Illness, NAMI Washington.

Persons Signed In To Testify But Not Testifying: No one.