
SUBSTITUTE SENATE BILL 5610

State of Washington

67th Legislature

2022 Regular Session

By Senate Health & Long Term Care (originally sponsored by Senators Frockt, Cleveland, Conway, Dhingra, Hasegawa, Honeyford, Keiser, Kuderer, Lias, Lovelett, Lovick, Randall, Robinson, Saldaña, Salomon, Stanford, Van De Wege, and C. Wilson)

READ FIRST TIME 01/27/22.

1 AN ACT Relating to requiring cost sharing for prescription drugs
2 to be counted against an enrollee's out-of-pocket costs, deductible,
3 cost sharing, out-of-pocket maximum, or similar enrollee obligation,
4 regardless of the source of the payment; amending RCW 41.05.017; and
5 adding a new section to chapter 48.43 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
8 RCW to read as follows:

9 (1)(a) Except as provided in (b) of this subsection, when
10 calculating an enrollee's contribution to any applicable cost-sharing
11 or out-of-pocket maximum, a health carrier offering a
12 nongrandfathered health plan with a pharmacy benefit, or a health
13 care benefit manager administering benefits for the health carrier,
14 shall include any cost-sharing amounts paid by the enrollee directly
15 or on behalf of the enrollee by another person for a covered
16 prescription drug that is either:

17 (i) Without a generic equivalent; or

18 (ii) With a generic equivalent where the enrollee has obtained
19 access to the drug through:

20 (A) Prior authorization;

21 (B) Step therapy; or

1 (C) The prescription drug exception request process under RCW
2 48.43.420.

3 (b) When calculating an enrollee's contribution to any applicable
4 deductible, any amount paid on behalf of the enrollee by another
5 person for a prescription drug that is not subject to payment of a
6 deductible need not be included in the calculation, unless the terms
7 of the enrollee's health plan require inclusion.

8 (2) Any cost-sharing amounts paid directly by or on behalf of the
9 enrollee by another person for a covered prescription drug under
10 subsection (1) of this section shall be applied towards the
11 enrollee's applicable cost-sharing or out-of-pocket maximum in full
12 at the time it is rendered.

13 (3) The commissioner may adopt any rules necessary to implement
14 this section.

15 (4) This section applies to nongrandfathered health plans issued
16 or renewed on or after January 1, 2023.

17 (5) This section does not apply to a qualifying health plan for a
18 health savings account to the extent necessary to preserve the
19 enrollee's ability to claim tax exempt contributions and withdrawals
20 from the enrollee's health savings account under internal revenue
21 service laws, regulations, and guidance.

22 (6) For purposes of this section:

23 (a) "Health care benefit manager" has the same meaning as in RCW
24 48.200.020.

25 (b) "Person" has the same meaning as in RCW 48.01.070.

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

28 Each health plan that provides medical insurance offered under
29 this chapter, including plans created by insuring entities, plans not
30 subject to the provisions of Title 48 RCW, and plans created under
31 RCW 41.05.140, are subject to the provisions of RCW 48.43.500,
32 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545,
33 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128,
34 section 1 of this act, and chapter 48.49 RCW.

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