
Health Care & Wellness Committee

SSB 5300

Brief Description: Concerning continuity of coverage for prescription drugs prescribed for the treatment of behavioral health conditions.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Dhingra, Billig, Cleveland, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lovelett, Nguyen, Nobles, Randall, Rivers, Robinson, Shewmake, Valdez, Wellman and Wilson, C.).

Brief Summary of Substitute Bill

- Prohibits health carriers from requiring substitution of a prescribed nonpreferred drug with a preferred drug or increasing an enrollee's cost sharing obligation when the prescription is for a refill of an antipsychotic, antidepressant, or antiepileptic drug, or any other drug prescribed to treat a serious mental illness.
- Adds other drugs prescribed to treat serious mental illness to the drugs for which a pharmacist may not substitute a nonpreferred drug with a preferred drug for state purchased health care programs.

Hearing Date: 3/21/23

Staff: Kim Weidenaar (786-7120).

Background:

State Purchased Health Care Programs.

"State purchased health care" is the medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the Department of Social and Health Services, the Department of Health, the Basic Health Plan, the Health Care Authority, the Department of Labor and Industries, the Department of Corrections, the Department of Veterans

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Affairs, and local school districts. Any pharmacist filling a prescription under a state purchased health care program must substitute a preferred drug for any nonpreferred drug in a given therapeutic class unless the practitioner had indicated that the nonpreferred drug must be dispensed as written or the prescription is for a refill of antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an antiviral treatment for hepatitis C for which an established therapy is prescribed for 24 to 48 weeks, in which case the pharmacist must dispense the prescribed nonpreferred drug.

If a substitution is made, the pharmacist must notify the prescribing practitioner of the drug and dose dispensed. A state purchased health care program may impose restrictions on a practitioner's authority to write a prescription to dispense as written only under circumstances when the practitioner's frequency of prescribing dispensed as written for a nonpreferred drug varies significantly from other prescribers and the restrictions are limited to reduce the variation.

Health Plans offered by Health Carriers.

Under the Affordable Care Act, small group and individual market health plans must cover certain categories of essential health benefits, one of which is prescription drugs. A plan must ensure that a prescription drug benefit covers Federal Food and Drug Administration approved prescribed drugs, medications, or drug therapies that are the sole prescription drug available for a covered medical condition. The prescription drug benefit may include cost control measures, including requiring a preferred drug substitution in a given therapeutic class, if the restriction is for a less expensive, equally therapeutic alternative product available to treat the condition, and the benefit design may create incentive for the use of generic drugs.

Under state insurance regulations, a health plan is not required to use a formulary as part of its prescription drug benefit design. If a formulary is used, a health plan must meet certain requirements when a formulary change occurs. A plan must not exclude or remove a medication from its formulary if the drug is the sole drug option available to treat a disease or condition for which the health benefit plan, policy, or agreement otherwise provides coverage, unless the drug is removed because it becomes available over-the-counter, is proven to be medically ineffective, or is a documented medical risk to patient health. If a drug is removed from the formulary for any other reason, a carrier must continue to cover the drug for the time period required for an enrollee to use the carrier's substitution process to request continuation of coverage for the drug, and receive a decision through that process, unless patient safety requires swifter replacement.

Formularies and related preauthorization information must be posted on the health plan or health plan's contracted pharmacy benefit manager website. Unless the removal is done on an immediate or emergency basis, or because a generic equivalent becomes available without prior notice, formulary changes must be posted 60 days before the effective date of the change. In the case of an emergency removal, the change must be posted as soon as practicable, without unreasonable delay.

Summary of Bill:

For health plans that include prescription drug coverage that are issued or renewed on or after January 1, 2025, a health carrier may not require the substitution of a nonpreferred drug with a preferred drug in a given therapeutic class or increase an enrollee's cost-sharing obligation mid-plan year for the drug, if the prescription:

- is for a refill of an antipsychotic, antidepressant, antiepileptic, or other drugs prescribed to the enrollee to treat a serious mental illness;
- the enrollee is medically stable on the drug; and
- a participating provider continues to prescribe the drug.

These requirements do not prohibit:

- the carrier from:
 - requiring generic substitution during the current plan year;
 - adding new drugs to its formulary during the current plan year;
 - 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 drugs; or
- a participating provider from prescribing a different drug that is covered by the plan and medically appropriate for the enrollee.

"Serious mental illness" is defined as a mental disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, that results in serious functional impairment that substantially interferes with or limits one or more major life activities.

Beginning January 1, 2025, other drugs prescribed to an enrollee to treat a serious mental illness are added to the drugs that a pharmacist must dispense without substituting for a preferred drug in a given therapeutic class for prescriptions filled under a state purchased health care program.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.