

SSB 5610 - H AMD 1223

By Representative Cody

ADOPTED 03/02/2022

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

13 (i) Without a generic equivalent or a therapeutic equivalent
14 preferred under the health plan's formulary;

15 (ii) With a generic equivalent or a therapeutic equivalent
16 preferred under the health plan's formulary where the enrollee has
17 obtained access to the drug through:

18 (A) Prior authorization;

19 (B) Step therapy; or

20 (C) The prescription drug exception request process under RCW
21 48.43.420; or

22 (iii) With a generic equivalent or therapeutic equivalent
23 preferred under the health plan's formulary, throughout an exception
24 request process under RCW 48.43.420, including any appeal of a denial
25 of an exception request. If the health carrier utilizes a health care
26 benefit manager to approve or deny exception requests, the exception
27 request process for the purposes of this subsection (1)(a)(iii) also
28 includes any time between the completion of the exception request
29 process, including any appeal of a denial, and when the health care
30 benefit manager communicates the status of the request to the health
31 carrier.

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

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

11 (3) The commissioner may adopt any rules necessary to implement
12 this section.

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

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

20 (6) For purposes of this section:

21 (a) "Health care benefit manager" has the same meaning as in RCW
22 48.200.020.

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

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

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

33 Correct the title.

EFFECT: Exempts drugs with a therapeutic equivalent preferred
under the health plan's formulary from the requirement that a health
carrier count all cost-sharing amounts regardless of source (except
in circumstances involving prior authorization, step therapy, or an
exception process). Requires a health carrier to count all cost-
sharing amounts regardless of source throughout an exception request

process, including any appeal of a denial of an exception request and including any time between the completion of an exception request process conducted by a health care benefits manager and when the health care benefits manager communicates the status of the request to the health carrier.

--- **END** ---