
SUBSTITUTE SENATE BILL 5300

State of Washington

68th Legislature

2023 Regular Session

By Senate 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 C. Wilson)

READ FIRST TIME 02/10/23.

1 AN ACT Relating to continuity of coverage for prescription drugs
2 prescribed for the treatment of behavioral health conditions;
3 amending RCW 69.41.190; adding a new section to chapter 48.43 RCW;
4 and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** 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 health plans that include prescription drug coverage issued or
10 renewed on or after January 1, 2025, a health carrier may not require
11 the substitution of a nonpreferred drug with a preferred drug in a
12 given therapeutic class, or increase an enrollee's cost-sharing
13 obligation mid-plan year for the drug, if the prescription is for a
14 refill of an antipsychotic, antidepressant, antiepileptic, or other
15 drug prescribed to the enrollee to treat a serious mental illness,
16 the enrollee is medically stable on the drug, and a participating
17 provider continues to prescribe the drug.

18 (2) Nothing in this section prohibits:

19 (a) The carrier from requiring generic substitution during the
20 current plan year;

1 (b) The carrier from adding new drugs to its formulary during the
2 current plan year;

3 (c) The carrier from removing a drug from its formulary for
4 reasons of patient safety concerns, drug recall or removal from the
5 market, or medical evidence indicating no therapeutic effect of the
6 drug; or

7 (d) A participating provider from prescribing a different drug
8 that is covered by the plan and medically appropriate for the
9 enrollee.

10 (3) For the purposes of this section "serious mental illness"
11 means a mental disorder, as defined in the most recent edition of the
12 diagnostic and statistical manual of mental disorders published by
13 the American psychiatric association, that results in serious
14 functional impairment that substantially interferes with or limits
15 one or more major life activities.

16 **Sec. 2.** RCW 69.41.190 and 2011 1st sp.s. c 15 s 80 are each
17 amended to read as follows:

18 (1)(a) Except as provided in subsection (2) of this section, any
19 pharmacist filling a prescription under a state purchased health care
20 program as defined in RCW 41.05.011(~~((2))~~) shall substitute, where
21 identified, a preferred drug for any nonpreferred drug in a given
22 therapeutic class, unless the endorsing practitioner has indicated on
23 the prescription that the nonpreferred drug must be dispensed as
24 written, or the prescription is for a refill of an antipsychotic,
25 antidepressant, antiepileptic, or other drug prescribed to the
26 enrollee to treat a serious mental illness, chemotherapy,
27 antiretroviral, or immunosuppressive drug, or for the refill of a
28 immunomodulator/antiviral treatment for hepatitis C for which an
29 established, fixed duration of therapy is prescribed for at least
30 (~~((twenty-four))~~) 24 weeks but no more than (~~((forty-eight))~~) 48 weeks,
31 in which case the pharmacist shall dispense the prescribed
32 nonpreferred drug.

33 (b) When a substitution is made under (a) of this subsection, the
34 dispensing pharmacist shall notify the prescribing practitioner of
35 the specific drug and dose dispensed.

36 (2)(a) A state purchased health care program may impose limited
37 restrictions on an endorsing practitioner's authority to write a
38 prescription to dispense as written only under the following
39 circumstances:

1 (i) There is statistical or clear data demonstrating the
2 endorsing practitioner's frequency of prescribing dispensed as
3 written for nonpreferred drugs varies significantly from the
4 prescribing patterns of his or her peers;

5 (ii) The medical director of a state purchased health program
6 has: (A) Presented the endorsing practitioner with data that
7 indicates the endorsing practitioner's prescribing patterns vary
8 significantly from his or her peers, (B) provided the endorsing
9 practitioner an opportunity to explain the variation in his or her
10 prescribing patterns to those of his or her peers, and (C) if the
11 variation in prescribing patterns cannot be explained, provided the
12 endorsing practitioner sufficient time to change his or her
13 prescribing patterns to align with those of his or her peers; and

14 (iii) The restrictions imposed under (a) of this subsection (2)
15 must be limited to the extent possible to reduce variation in
16 prescribing patterns and shall remain in effect only until such time
17 as the endorsing practitioner can demonstrate a reduction in
18 variation in line with his or her peers.

19 (b) A state purchased health care program may immediately
20 designate an available, less expensive, equally effective generic
21 product in a previously reviewed drug class as a preferred drug,
22 without first submitting the product to review by the pharmacy and
23 therapeutics committee established pursuant to RCW 70.14.050.

24 (c) For a patient's first course of treatment within a
25 therapeutic class of drugs, a state purchased health care program may
26 impose limited restrictions on endorsing practitioners' authority to
27 write a prescription to dispense as written, only under the following
28 circumstances:

29 (i) There is a less expensive, equally effective therapeutic
30 alternative generic product available to treat the condition;

31 (ii) The drug use review board established under WAC 388-530-4000
32 reviews and provides recommendations as to the appropriateness of the
33 limitation;

34 (iii) Notwithstanding the limitation set forth in (c)(ii) of this
35 subsection (2), the endorsing practitioner shall have an opportunity
36 to request as medically necessary, that the brand name drug be
37 prescribed as the first course of treatment;

38 (iv) The state purchased health care program may provide, where
39 available, prescription, emergency room, diagnosis, and
40 hospitalization history with the endorsing practitioner; and

1 (v) Specifically for antipsychotic restrictions, the state
2 purchased health care program shall effectively guide good practice
3 without interfering with the timeliness of clinical decision making.
4 Health care authority prior authorization programs must provide for
5 responses within (~~(twenty-four)~~) 24 hours and at least a (~~(seventy-~~
6 ~~two)~~) 72 hour emergency supply of the requested drug.

7 (d) If, within a therapeutic class, there is an equally effective
8 therapeutic alternative over-the-counter drug available, a state
9 purchased health care program may designate the over-the-counter drug
10 as the preferred drug.

11 (e) A state purchased health care program may impose limited
12 restrictions on endorsing practitioners' authority to prescribe
13 pharmaceuticals to be dispensed as written for a purpose outside the
14 scope of their approved labels only under the following
15 circumstances:

16 (i) There is a less expensive, equally effective on-label product
17 available to treat the condition;

18 (ii) The drug use review board established under WAC 388-530-4000
19 reviews and provides recommendations as to the appropriateness of the
20 limitation; and

21 (iii) Notwithstanding the limitation set forth in (e)(ii) of this
22 subsection (2), the endorsing practitioner shall have an opportunity
23 to request as medically necessary, that the drug be prescribed for a
24 covered off-label purpose.

25 (f) The provisions of this subsection related to the definition
26 of medically necessary, prior authorization procedures and patient
27 appeal rights shall be implemented in a manner consistent with
28 applicable federal and state law.

29 (3) Notwithstanding the limitations in subsection (2) of this
30 section, for refills for an antipsychotic, antidepressant,
31 antiepileptic, or other drug prescribed to the enrollee to treat a
32 serious mental illness, chemotherapy, antiretroviral, or
33 immunosuppressive drug, or for the refill of an immunomodulator
34 antiviral treatment for hepatitis C for which an established, fixed
35 duration of therapy is prescribed for at least (~~(twenty-four)~~) 24
36 weeks by no more than (~~(forty-eight)~~) 48 weeks, the pharmacist shall
37 dispense the prescribed nonpreferred drug.

1 NEW SECTION. **Sec. 3.** Section 2 of this act takes effect January
2 1, 2025.

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