

By: Klick

H.B. No. 3286

A BILL TO BE ENTITLED

AN ACT

relating to certain prescription drug benefits under the Medicaid managed care program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 533, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PRESCRIPTION DRUG BENEFITS UNDER CERTAIN OUTPATIENT PHARMACY BENEFIT PLANS

Sec. 533.071. DEFINITION. In this subchapter, "step therapy protocol" means a protocol that requires a recipient to use a prescription drug or sequence of prescription drugs other than the drug that the recipient's physician recommends for the recipient's treatment before a Medicaid managed care organization provides coverage for the recommended drug.

Sec. 533.072. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an outpatient pharmacy benefit plan implemented by a Medicaid managed care organization.

Sec. 533.073. STEP THERAPY PROTOCOL EXCEPTION REQUESTS.
(a) A Medicaid managed care organization shall establish a process in a user-friendly format through which a step therapy protocol exception request may be submitted by a prescribing provider. The process must be readily accessible to:

(1) a recipient who enrolls in a managed care plan offered by the organization or transfers to a managed care plan

1 offered by the organization from a managed care plan offered by
2 another Medicaid managed care organization; and

3 (2) the provider.

4 (b) A prescribing provider on behalf of a recipient may
5 submit in written or electronic form or by telephone to the
6 recipient's Medicaid managed care organization an exception
7 request for a step therapy protocol required by the recipient's
8 Medicaid managed care organization.

9 (c) A Medicaid managed care organization shall review and,
10 if clinically appropriate, grant an exception request under
11 Subsection (b) if the request includes a statement by the
12 prescribing provider stating that:

13 (1) the drug required under the step therapy protocol:

14 (A) is contraindicated;

15 (B) will likely cause an adverse reaction in or
16 physical or mental harm to the recipient; or

17 (C) is expected to be ineffective based on the
18 known clinical characteristics of the recipient and the known
19 characteristics of the prescription drug regimen;

20 (2) the recipient previously discontinued taking the
21 drug required under the step therapy protocol:

22 (A) while enrolled in a managed care plan offered
23 by the recipient's current Medicaid managed care organization or
24 while enrolled in a managed care plan offered by another Medicaid
25 managed care organization; and

26 (B) because the drug was not effective or had a
27 diminished effect or because of an adverse event;

1 (3) the drug required under the step therapy protocol
2 is not in the best interest of the recipient, based on clinical
3 appropriateness, because the recipient's use of the drug is
4 expected to:

5 (A) cause a significant barrier to the
6 recipient's adherence to or compliance with the recipient's plan of
7 care;

8 (B) worsen a comorbid condition of the recipient;
9 or

10 (C) decrease the recipient's ability to achieve
11 or maintain reasonable functional ability in performing daily
12 activities; or

13 (4) the drug that is subject to the step therapy
14 protocol was prescribed for the recipient's condition while
15 enrolled in a managed care plan offered by the recipient's current
16 Medicaid managed care organization or while enrolled in a managed
17 care plan offered by a previous Medicaid managed care organization
18 and the recipient is stable on the drug.

19 (d) Except as provided by Subsection (e), if a Medicaid
20 managed care organization does not deny an exception request under
21 Subsection (b) before 72 hours after the organization receives the
22 request, the request is considered granted.

23 (e) If a statement described by Subsection (c) also states
24 that the prescribing provider reasonably believes that denial of
25 the exception request makes the death of or serious harm to the
26 recipient probable, the request is considered granted if the
27 Medicaid managed care organization does not deny the request before

1 24 hours after the organization receives the request.

2 (f) A Medicaid managed care organization may not require a
3 prescribing provider to submit a subsequent exception request under
4 Subsection (b) for a drug for treatment of a recipient's condition
5 for which the organization has already granted an exception to a
6 step therapy protocol for the recipient unless the organization's
7 medical director determines that the drug for treatment under the
8 previously granted exception request will likely cause physical or
9 mental harm to the recipient.

10 Sec. 533.074. PREFERRED DRUG LIST; SEARCHABLE DATABASE OF
11 PREFERRED DRUGS AND RESTRICTIONS. (a) A Medicaid managed care
12 organization shall distribute current copies of the organization's
13 preferred drug list by posting the list on the organization's
14 Internet website.

15 (b) A Medicaid managed care organization shall maintain on
16 the organization's Internet website a searchable database through
17 which a provider may search the organization's preferred drug list
18 to easily determine whether a prescription drug or drug class is
19 subject to any prior authorization requirements, clinical edits, or
20 other clinical restrictions. An organization shall make reasonable
21 efforts to ensure that the database contains current information.

22 SECTION 2. If before implementing any provision of this Act
23 a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 3. This Act takes effect September 1, 2023.