As Introduced

133rd General Assembly
Regular Session
2019-2020

H. B. No. 512

Representative Rogers

A BILL

To amend sections 5162.20 and 5167.12 and to enact sections 3902.50 and 5164.092 of the Revised Code regarding insurance and Medicaid coverage of epinephrine and glucagon.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5162.20 and 5167.12 be amended and sections 3902.50 and 5164.092 of the Revised Code be enacted to read as follows:

Sec. 3902.50. (A) As used in this section:

(1) "Cost sharing" means the cost to a covered person under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirement.

(2) "Covered person" and "health benefit plan" have the same meanings as in section 3922.01 of the Revised Code.

(B) A health benefit plan shall cover epinephrine in any prescribed form for a covered person eighteen years of age or younger if considered medically necessary by the covered person's provider. A health benefit plan shall not impose cost...
sharing for epinephrine in any prescribed form that exceeds one hundred dollars per prescription fill.

(C) A health benefit plan shall cover glucagon in any prescribed form for a covered person eighteen years of age or younger if considered medically necessary by the covered person's provider. A health benefit plan shall not impose cost sharing for glucagon in any prescribed form that exceeds one hundred dollars per prescription fill.

(D) Nothing in this section is subject to section 3901.71 of the Revised Code.

Sec. 5162.20. (A) The department of medicaid shall institute cost-sharing requirements for the medicaid program. The department shall not institute cost-sharing requirements in a manner that does either any of the following:

(1) Disproportionately impacts the ability of medicaid recipients with chronic illnesses to obtain medically necessary medicaid services;

(2) Violates section 5164.09 of the Revised Code;

(3) Violates section 5164.092 of the Revised Code.

(B)(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;
(b) Prohibit the provider from attempting to collect an unpaid copayment.

(C) Except as provided in division (F) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(D) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(E) If it is the routine business practice of a provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing requirements as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the recipient of the provider's intent to refuse service.

(F) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (C) of this section does not apply.

(G) The department of medicaid may collaborate with a state agency that is administering, pursuant to a contract entered into under section 5162.35 of the Revised Code, one or
more components, or one or more aspects of a component, of the medicaid program as necessary for the state agency to apply the cost-sharing requirements to the components or aspects of a component that the state agency administers.

**Sec. 5164.092.** (A) The medicaid program shall cover epinephrine in any prescribed form for a medicaid recipient who is eighteen years of age or younger if considered medically necessary by the recipient's provider. In implementing this section, the department of medicaid shall not impose cost-sharing requirements under section 5162.20 of the Revised Code for epinephrine in any prescribed form that are greater than any cost-sharing requirements instituted under that section for epinephrine in a different prescribed form.

(B) The medicaid program shall cover glucagon in any prescribed form for a medicaid recipient who is eighteen years of age or younger if considered medically necessary by the recipient's provider. In implementing this section, the department shall not impose cost-sharing requirements under section 5162.20 of the Revised Code for glucagon in any prescribed form that are greater than any cost-sharing requirements instituted under that section for glucagon in a different prescribed form.

**Sec. 5167.12.** If prescribed drugs are included in the care management system:

(A) Medicaid MCO plans may include strategies for the management of drug utilization, but any such strategies are subject to the limitations and requirements of this section and the approval of the department of medicaid.

(B) A medicaid MCO plan shall not impose a prior
authorization requirement in the case of a drug to which all of
the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard
tablet or capsule form, except that in the case of an
antipsychotic, the drug also may be administered or dispensed in
a long-acting injectable form.

(3) The drug is prescribed by any of the following:

(a) A physician whom the medicaid managed care
organization that offers the plan allows to provide care as a
psychiatrist through its credentialing process;

(b) A psychiatrist who is practicing at a location on
behalf of a community mental health services provider whose
mental health services are certified by the department of mental
health and addiction services under section 5119.36 of the
Revised Code;

(c) A certified nurse practitioner, as defined in section
4723.01 of the Revised Code, who is certified in psychiatric
mental health by a national certifying organization approved by
the board of nursing under section 4723.46 of the Revised Code;

(d) A clinical nurse specialist, as defined in section
4723.01 of the Revised Code, who is certified in psychiatric
mental health by a national certifying organization approved by
the board of nursing under section 4723.46 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on
the drug's labeling, as approved by the federal food and drug
administration.

(C) The department shall authorize a medicaid MCO plan to
include a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.

(D) Each medicaid managed care organization and medicaid MCO plan shall comply with sections 5164.091, 5164.092, 5164.7511, 5164.7512, and 5164.7514 of the Revised Code as if the organization were the department and the plan were the medicaid program.

Section 2. That existing sections 5162.20 and 5167.12 of the Revised Code are hereby repealed.

Section 3. This act shall apply to health benefit plans, as defined in section 3922.01 of the Revised Code, delivered, issued for delivery, modified, or renewed on or after the effective date of this act.