As Introduced

131st General Assembly
Regular Session **H. B. No. 116**
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Representatives Brown, Ginter
Cosponsors: Representatives Becker, Kuhns, Kraus, Lepore-Hagan

A BILL

To amend sections 1739.05, 5164.01, 5164.753, 5164.757, 5167.01, and 5167.12 and to enact sections 1751.68, 3923.602, 4729.20, and 5164.7511 of the Revised Code to provide for partial drug prescription refills for the purpose of synchronizing multiple prescriptions for one patient.

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

Section 1. That sections 1739.05, 5164.01, 5164.753, 5164.757, 5167.01, and 5167.12 be amended and sections 1751.68, 3923.602, 4729.20, and 5164.7511 of the Revised Code be enacted to read as follows:

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment

of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.85, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

Sec. 1751.68. (A) As used in this section:

(1) "Cost-sharing" means the cost to an enrollee insured under an individual or group health insuring corporation policy,

contract, or agreement according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy, contract, or agreement.

(2) "Covered individual" means an individual receiving benefits under a health insuring corporation policy, contract, or agreement.

(3) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(4) "Medication synchronization" means a pharmacy service that coordinates the filling, refilling, or short filling of all of a covered individual's chronic prescription drugs in a manner that allows the patient to pick up all of the prescriptions in question on the same date each month.

(5) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(6) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual, issued by a prescriber.

(7) "Schedule II" and "controlled substance" have the same meanings as in section 3719.01 of the Revised Code.

(8) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount.

(B) Notwithstanding section 3901.71 of the Revised Code, an individual or group health insuring corporation policy, contract, or agreement issued in this state that provides prescription drug coverage shall comply with all of the

following:

(1)(a) The policy, contract, or agreement shall provide for medication synchronization when it is agreed among a covered individual, the covered individual's provider, and a network pharmacist that medication synchronization would be in the best interest of the covered individual. After an initial medication synchronization, short filling a prescription may be used to achieve medication synchronization if there is a change in dosage or frequency of administration for one or more of the drugs that are being synchronized or the covered individual in question is prescribed a new drug that is subject to medication synchronization.

(b) Only drugs that meet all of the following criteria shall be eligible for medication synchronization:

(i) The drug is covered by the policy, contract, or agreement.

(ii) The drug is used for treatment and management of chronic conditions and is subject to refills.

(iii) The drug meets all relevant prior authorization criteria.

(iv) The drug does not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling the medication synchronization.

(2)(a) The policy, contract, or agreement shall permit and apply a prorated daily cost-sharing rate for a supply of a drug that is dispensed in conjunction with medication synchronization at a network pharmacy.

(b) Division (B)(2)(a) of this section shall not be

construed as requiring a policy, contract, or agreement to waive cost-sharing for prescriptions that are filled or refilled under division (B)(1) of this section.

(3) The policy, contract, or agreement shall not deny coverage for any drug prescribed that is dispensed in accordance with a medication synchronization plan that is developed under division (B)(1) of this section.

(4) A policy, contract, or agreement shall not use payment structures incorporating prorated dispensing fees determined by calculation of the days' supply of drugs dispensed. Dispensing fees shall be determined exclusively on the total number of prescriptions filled or refilled.

(C) Division (B) of this section does not apply to prescriptions for drugs that are schedule II controlled substances, substances containing opiates, or benzodiazepines.

Sec. 3923.602. (A) As used in this section:

(1) "Cost-sharing" means the cost to an enrollee insured under a policy of sickness and accident insurance or a public employee benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy or plan.

(2) "Covered individual" means an individual receiving benefits under a policy of sickness and accident insurance or a public employee benefit plan.

(3) "Drug" has the same meaning as in section 4729.01 of the Revised Code.

(4) "Medication synchronization" means a pharmacy service that coordinates the filling, refilling, or short filling of all

of a covered individual's chronic prescription drugs in a manner that allows the patient to pick up all of the prescriptions in question on the same date each month.

(5) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(6) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual, issued by a prescriber.

(7) "Schedule II" and "controlled substance" have the same meanings as in section 3719.01 of the Revised Code.

(8) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount.

(B) Notwithstanding section 3901.71 of the Revised Code, a policy of sickness and accident insurance issued or a public employee benefit plan operated in this state that provides prescription drug coverage shall comply with all of the following:

(1)(a) The policy or plan shall provide for medication synchronization when it is agreed among a covered individual, the covered individual's provider, and a network pharmacist that medication synchronization would be in the best interest of the covered individual. After an initial medication synchronization, short filling a prescription may be used to achieve medication synchronization if there is a change in dosage or frequency of administration for one or more of the drugs that are being synchronized or the covered individual in question is prescribed a new drug that is subject to medication synchronization.

(b) Only drugs that meet all of the following criteria

shall be eligible for medication synchronization:

(i) The drug is covered by the policy or plan.

(ii) The drug is used for treatment and management of chronic conditions and is subject to refills.

(iii) The drug meets all relevant prior authorization criteria.

(iv) The drug does not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling the medication synchronization.

(2)(a) The policy or plan shall permit and apply a prorated daily cost-sharing rate for a supply of a drug that is dispensed in conjunction with medication synchronization at a network pharmacy.

(b) Division (B)(2)(a) of this section shall not be construed as requiring a policy or plan to waive cost-sharing for prescriptions that are filled or refilled under division (B)(1) of this section.

(3) The policy, contract, or agreement shall not deny coverage for any drug prescribed that is dispensed in accordance with a medication synchronization plan that is developed under division (B)(1) of this section.

(4) A policy or plan shall not use payment structures incorporating prorated dispensing fees determined by calculation of the days' supply of drugs dispensed. Dispensing fees shall be determined exclusively on the total number of prescriptions filled or refilled.

(C) Division (B) of this section does not apply to prescriptions for drugs that are schedule II controlled

substances, substances containing opiates, or benzodiazepines.

Sec. 4729.20. (A) As used in this section:

(1) "Covered individual" means an individual receiving health benefits under a health insuring policy, contract, or agreement, a policy of sickness and accident insurance, or a public employee benefit plan.

(2) "Medication synchronization" means a pharmacy service that coordinates the filling or refilling of all of a covered individual's chronic prescription drugs in a manner that allows the patient to pick up all of the prescriptions in question on the same date each month.

(3) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount.

(B) Except as provided in divisions (C) and (D) of this section, a pharmacist may engage in medication synchronization for a covered individual suffering from a chronic condition when it is agreed among a covered individual, the covered individual's provider, and the pharmacist that medication synchronization would be in the best interest of the covered individual by short filling one or more drugs.

(C) A pharmacist shall not synchronize prescriptions for a schedule II controlled substance, a substance containing opiates, or benzodiazepines.

(D) A pharmacist shall not short fill a prescription more than once unless either of the following conditions are met:

(1) There is a change in dosage or frequency of administration for one or more of the drugs that are being

synchronized.

(2) The covered individual in question is prescribed a new drug that is subject to medication synchronization.

Sec. 5164.01. As used in this chapter:

(A) "Early and periodic screening, diagnostic, and treatment services" has the same meaning as in the "Social Security Act," section 1905(r), 42 U.S.C. 1396d(r).

(B) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(C) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services.

(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(E) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(F) "ICDS participant" means a dual eligible individual who participates in the integrated care delivery system.

(G) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(H) "Integrated care delivery system" and "ICDS" mean the demonstration project authorized by section 5164.91 of the Revised Code.

(I) "Mandatory services" means the health care services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation

for the medicaid program.

(J) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(K) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both.

(L) "Medicaid services" means either or both of the following:

(1) Mandatory services;

(2) Optional services that the medicaid program covers.

(M) "Medication synchronization" means a pharmacy service that coordinates the filling, refilling, or short filling of all of a medicaid recipient's chronic prescription drugs in a manner that allows the recipient to pick up all of the prescriptions in question on the same date each month.

(N) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

~~(N)~~ (O) "Optional services" means the health care services and items that may be covered by the medicaid state plan or a federal medicaid waiver and for which the medicaid program receives federal financial participation.

~~(O)~~ (P) "Pharmacy provider" means a medicaid provider that is a pharmacy licensed as a terminal distributor of dangerous drugs.

(Q) "Prescribed drug" has the same meaning as in 42 C.F.R. 440.120.

~~(P)~~ (R) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(S) "Provider agreement" means an agreement to which all of the following apply:

(1) It is between a medicaid provider and the department of medicaid;

(2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;

(3) It complies with 42 C.F.R. 431.107(b).

~~(Q)~~ (T) "Schedule II" and "controlled substance" have the same meanings as in section 3719.01 of the Revised Code.

(U) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount.

(V) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

Sec. 5164.753. In December of every even-numbered year, the medicaid director shall establish a dispensing fee, effective the following July, for terminal distributors of dangerous drugs that are providers of drugs under the medicaid program. In establishing the dispensing fee, the director shall take into consideration the results of the survey conducted under section 5164.752 of the Revised Code. The dispensing fee shall not be prorated on the basis of the days' supply of prescribed drugs dispensed.

Sec. 5164.757. ~~(A) As used in this section, "licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.~~

~~(B)~~ The medicaid director may acquire or specify technologies to provide information regarding medicaid recipient eligibility, claims history, and drug coverage to medicaid providers through electronic health record and e-prescribing applications.

If such technologies are acquired or specified, the e-prescribing applications shall enable a medicaid provider who is a ~~licensed health professional authorized to prescribe drugs~~ prescriber to use an electronic system to prescribe a drug for a medicaid recipient. The purpose of the electronic system is to eliminate the need for such medicaid providers to issue prescriptions for medicaid recipients by handwriting or telephone. The technologies acquired or specified by the director also shall provide such medicaid providers with an up-to-date, clinically relevant drug information database and a system of electronically monitoring medicaid recipients' medical history, drug regimen compliance, and fraud and abuse.

Sec. 5164.7511. The medicaid program shall do all of the following regarding its coverage of prescribed drugs:

(A) Allow a pharmacy provider to engage in medication synchronization for a medicaid recipient for the treatment of a chronic condition, other than prescriptions for drugs that are schedule II controlled substances, substances containing opiates, or benzodiazepines, if the prescribed drugs are dispensed in accordance with a plan agreed to by the medicaid recipient, the prescriber, and a pharmacist of the pharmacy provider.

(B) Prorate any cost-sharing charges instituted under section 5162.20 of the Revised Code for prescribed drugs if the drugs are short filled by a pharmacy provider.

(C) Determine dispensing fees exclusively on the total number of prescriptions filled or refilled and not use payment structures incorporating prorated dispensing fees determined by calculation of the days' supply of drugs dispensed.

Sec. 5167.01. As used in this chapter:

(A) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(B) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(C) "Emergency services" has the same meaning as in the "Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b)(2).

(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(E) "Medicaid managed care organization" means a managed care organization under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(F) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(G) "Medication synchronization" means a pharmacy service that coordinates the filling, refilling, or short filling of all of a medicaid recipient's chronic prescription drugs in a manner that allows the recipient to pick up all of the prescriptions in question on the same date each month.

(H) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

~~(H)~~ (I) "Pharmacy provider" means a provider that is a pharmacy licensed as a terminal distributor of dangerous drugs.

(J) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

~~(I)~~ (K) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(L) "Provider" means any person or government entity that furnishes services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person or entity has a provider agreement.

~~(J)~~ (M) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

(N) "Schedule II" has the same meaning as in section 3719.01 of the Revised Code.

(O) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount.

(P) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

Sec. 5167.12. (A) When contracting under section 5167.10 of the Revised Code with a managed care organization that is a health insuring corporation, the department of medicaid shall require the health insuring corporation to ~~provide~~ do all of the following:

(1) Include coverage of prescribed drugs ~~for~~ in the

benefits package available to medicaid recipients enrolled in the health insuring corporation;

(2) Allow a pharmacy provider to engage in medication synchronization for a medicaid recipient for the treatment of a chronic condition, other than prescriptions for drugs that are schedule II controlled substances, substances containing opiates, or benzodiazepines, if the prescribed drugs are dispensed in accordance with a plan agreed to by the medicaid recipient, the prescriber, and a pharmacist of the pharmacy provider;

(3) Prorate any cost-sharing charges instituted under the health insuring corporation's benefits package for prescribed drugs if the drugs are short filled by a pharmacy provider;

(4) Determine dispensing fees exclusively on the total number of prescriptions filled or refilled and not use payment structures incorporating prorated dispensing fees determined by calculation of the days' supply of drugs dispensed.

~~In~~ (B) In providing the required coverage of prescribed drugs pursuant to this section, ~~the~~ a health insuring corporation may, subject to the department's approval and the limitations specified in division ~~(B)~~ (C) of this section, use strategies for the management of drug utilization.

~~(B)~~ (C) The department shall not permit a health insuring corporation to 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 either of the following:

(a) A physician whom the health insuring corporation, pursuant to division (C) of section 5167.10 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health services provider certified by the department of mental health and addiction services under section 5119.36 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)~~ (D) The department shall permit a health insuring corporation to develop and implement 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.

Section 2. That existing sections 1739.05, 5164.01, 5164.753, 5164.757, 5167.01, and 5167.12 of the Revised Code are hereby repealed.

Section 3. Sections 1739.05 and 1751.68 of the Revised Code, as amended or enacted by this act, apply only to arrangements, policies, contracts, and agreements that are created, delivered, issued for delivery, or renewed in this state on or after January 1, 2016. Section 3923.602 of the Revised Code, as enacted by this act, applies only to policies of sickness and accident insurance delivered, issued for delivery, or renewed in this state and public employee benefit plans that are established or modified in this state on or after

January 1, 2016. 441