

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 116

Representatives Brown, Ginter

Cosponsors: Representatives Becker, Kuhns, Kraus, Lepore-Hagan

A BILL

To amend sections 1739.05, 5164.01, 5164.753, 1
5164.757, 5167.01, and 5167.12 and to enact 2
sections 1751.68, 3923.602, 4729.20, and 3
5164.7511 of the Revised Code to provide for 4
partial drug prescription refills for the 5
purpose of synchronizing multiple prescriptions 6
for one patient. 7

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

Section 1. That sections 1739.05, 5164.01, 5164.753, 8
5164.757, 5167.01, and 5167.12 be amended and sections 1751.68, 9
3923.602, 4729.20, and 5164.7511 of the Revised Code be enacted 10
to read as follows: 11

Sec. 1739.05. (A) A multiple employer welfare arrangement 12
that is created pursuant to sections 1739.01 to 1739.22 of the 13
Revised Code and that operates a group self-insurance program 14
may be established only if any of the following applies: 15

(1) The arrangement has and maintains a minimum enrollment 16
of three hundred employees of two or more employers. 17

(2) The arrangement has and maintains a minimum enrollment 18

of three hundred self-employed individuals. 19

(3) The arrangement has and maintains a minimum enrollment 20
of three hundred employees or self-employed individuals in any 21
combination of divisions (A) (1) and (2) of this section. 22

(B) A multiple employer welfare arrangement that is 23
created pursuant to sections 1739.01 to 1739.22 of the Revised 24
Code and that operates a group self-insurance program shall 25
comply with all laws applicable to self-funded programs in this 26
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 27
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 28
3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 29
3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.85, 30
3924.031, 3924.032, and 3924.27 of the Revised Code. 31

(C) A multiple employer welfare arrangement created 32
pursuant to sections 1739.01 to 1739.22 of the Revised Code 33
shall solicit enrollments only through agents or solicitors 34
licensed pursuant to Chapter 3905. of the Revised Code to sell 35
or solicit sickness and accident insurance. 36

(D) A multiple employer welfare arrangement created 37
pursuant to sections 1739.01 to 1739.22 of the Revised Code 38
shall provide benefits only to individuals who are members, 39
employees of members, or the dependents of members or employees, 40
or are eligible for continuation of coverage under section 41
1751.53 or 3923.38 of the Revised Code or under Title X of the 42
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 43
Stat. 227, 29 U.S.C.A. 1161, as amended. 44

Sec. 1751.68. (A) As used in this section: 45

(1) "Cost-sharing" means the cost to an enrollee insured 46
under an individual or group health insuring corporation policy, 47

contract, or agreement according to any coverage limit, 48
copayment, coinsurance, deductible, or other out-of-pocket 49
expense requirements imposed by the policy, contract, or 50
agreement. 51

(2) "Covered individual" means an individual receiving 52
benefits under a health insuring corporation policy, contract, 53
or agreement. 54

(3) "Drug" has the same meaning as in section 4729.01 of 55
the Revised Code. 56

(4) "Medication synchronization" means a pharmacy service 57
that coordinates the filling, refilling, or short filling of all 58
of a covered individual's chronic prescription drugs in a manner 59
that allows the patient to pick up all of the prescriptions in 60
question on the same date each month. 61

(5) "Prescriber" has the same meaning as in section 62
4729.01 of the Revised Code. 63

(6) "Prescription" means a written, electronic, or oral 64
order for drugs or combinations or mixtures of drugs to be used 65
by a particular individual, issued by a prescriber. 66

(7) "Schedule II" and "controlled substance" have the same 67
meanings as in section 3719.01 of the Revised Code. 68

(8) "Short fill" means providing, in conjunction with 69
medication synchronization, a supply of a drug that is less than 70
the prescribed amount. 71

(B) Notwithstanding section 3901.71 of the Revised Code, 72
an individual or group health insuring corporation policy, 73
contract, or agreement issued in this state that provides 74
prescription drug coverage shall comply with all of the 75

following: 76

(1) (a) The policy, contract, or agreement shall provide 77
for medication synchronization when it is agreed among a covered 78
individual, the covered individual's provider, and a network 79
pharmacist that medication synchronization would be in the best 80
interest of the covered individual. After an initial medication 81
synchronization, short filling a prescription may be used to 82
achieve medication synchronization if there is a change in 83
dosage or frequency of administration for one or more of the 84
drugs that are being synchronized or the covered individual in 85
question is prescribed a new drug that is subject to medication 86
synchronization. 87

(b) Only drugs that meet all of the following criteria 88
shall be eligible for medication synchronization: 89

(i) The drug is covered by the policy, contract, or 90
agreement. 91

(ii) The drug is used for treatment and management of 92
chronic conditions and is subject to refills. 93

(iii) The drug meets all relevant prior authorization 94
criteria. 95

(iv) The drug does not have quantity limits or dose 96
optimization criteria or requirements that would be violated in 97
fulfilling the medication synchronization. 98

(2) (a) The policy, contract, or agreement shall permit and 99
apply a prorated daily cost-sharing rate for a supply of a drug 100
that is dispensed in conjunction with medication synchronization 101
at a network pharmacy. 102

(b) Division (B) (2) (a) of this section shall not be 103

construed as requiring a policy, contract, or agreement to waive 104
cost-sharing for prescriptions that are filled or refilled under 105
division (B) (1) of this section. 106

(3) The policy, contract, or agreement shall not deny 107
coverage for any drug prescribed that is dispensed in accordance 108
with a medication synchronization plan that is developed under 109
division (B) (1) of this section. 110

(4) A policy, contract, or agreement shall not use payment 111
structures incorporating prorated dispensing fees determined by 112
calculation of the days' supply of drugs dispensed. Dispensing 113
fees shall be determined exclusively on the total number of 114
prescriptions filled or refilled. 115

(C) Division (B) of this section does not apply to 116
prescriptions for drugs that are schedule II controlled 117
substances, substances containing opiates, or benzodiazepines. 118

Sec. 3923.602. (A) As used in this section: 119

(1) "Cost-sharing" means the cost to an enrollee insured 120
under a policy of sickness and accident insurance or a public 121
employee benefit plan according to any coverage limit, 122
copayment, coinsurance, deductible, or other out-of-pocket 123
expense requirements imposed by the policy or plan. 124

(2) "Covered individual" means an individual receiving 125
benefits under a policy of sickness and accident insurance or a 126
public employee benefit plan. 127

(3) "Drug" has the same meaning as in section 4729.01 of 128
the Revised Code. 129

(4) "Medication synchronization" means a pharmacy service 130
that coordinates the filling, refilling, or short filling of all 131

of a covered individual's chronic prescription drugs in a manner 132
that allows the patient to pick up all of the prescriptions in 133
question on the same date each month. 134

(5) "Prescriber" has the same meaning as in section 135
4729.01 of the Revised Code. 136

(6) "Prescription" means a written, electronic, or oral 137
order for drugs or combinations or mixtures of drugs to be used 138
by a particular individual, issued by a prescriber. 139

(7) "Schedule II" and "controlled substance" have the same 140
meanings as in section 3719.01 of the Revised Code. 141

(8) "Short fill" means providing, in conjunction with 142
medication synchronization, a supply of a drug that is less than 143
the prescribed amount. 144

(B) Notwithstanding section 3901.71 of the Revised Code, a 145
policy of sickness and accident insurance issued or a public 146
employee benefit plan operated in this state that provides 147
prescription drug coverage shall comply with all of the 148
following: 149

(1) (a) The policy or plan shall provide for medication 150
synchronization when it is agreed among a covered individual, 151
the covered individual's provider, and a network pharmacist that 152
medication synchronization would be in the best interest of the 153
covered individual. After an initial medication synchronization, 154
short filling a prescription may be used to achieve medication 155
synchronization if there is a change in dosage or frequency of 156
administration for one or more of the drugs that are being 157
synchronized or the covered individual in question is prescribed 158
a new drug that is subject to medication synchronization. 159

(b) Only drugs that meet all of the following criteria 160

shall be eligible for medication synchronization: 161

(i) The drug is covered by the policy or plan. 162

(ii) The drug is used for treatment and management of chronic conditions and is subject to refills. 163
164

(iii) The drug meets all relevant prior authorization criteria. 165
166

(iv) The drug does not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling the medication synchronization. 167
168
169

(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. 170
171
172
173

(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. 174
175
176
177

(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. 178
179
180
181

(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. 182
183
184
185
186

(C) Division (B) of this section does not apply to prescriptions for drugs that are schedule II controlled 187
188

substances, substances containing opiates, or benzodiazepines. 189

Sec. 4729.20. (A) As used in this section: 190

(1) "Covered individual" means an individual receiving 191
health benefits under a health insuring policy, contract, or 192
agreement, a policy of sickness and accident insurance, or a 193
public employee benefit plan. 194

(2) "Medication synchronization" means a pharmacy service 195
that coordinates the filling or refilling of all of a covered 196
individual's chronic prescription drugs in a manner that allows 197
the patient to pick up all of the prescriptions in question on 198
the same date each month. 199

(3) "Short fill" means providing, in conjunction with 200
medication synchronization, a supply of a drug that is less than 201
the prescribed amount. 202

(B) Except as provided in divisions (C) and (D) of this 203
section, a pharmacist may engage in medication synchronization 204
for a covered individual suffering from a chronic condition when 205
it is agreed among a covered individual, the covered 206
individual's provider, and the pharmacist that medication 207
synchronization would be in the best interest of the covered 208
individual by short filling one or more drugs. 209

(C) A pharmacist shall not synchronize prescriptions for a 210
schedule II controlled substance, a substance containing 211
opiates, or benzodiazepines. 212

(D) A pharmacist shall not short fill a prescription more 213
than once unless either of the following conditions are met: 214

(1) There is a change in dosage or frequency of 215
administration for one or more of the drugs that are being 216

<u>synchronized.</u>	217
<u>(2) The covered individual in question is prescribed a new drug that is subject to medication synchronization.</u>	218 219
Sec. 5164.01. As used in this chapter:	220
(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).	221 222 223
(B) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.	224 225
(C) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services.	226 227 228
(D) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.	229 230 231
(E) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	232 233
(F) "ICDS participant" means a dual eligible individual who participates in the integrated care delivery system.	234 235
(G) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.	236 237
(H) "Integrated care delivery system" and "ICDS" mean the demonstration project authorized by section 5164.91 of the Revised Code.	238 239 240
(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	241 242 243

for the medicaid program. 244

(J) "Medicaid managed care organization" has the same 245
meaning as in section 5167.01 of the Revised Code. 246

(K) "Medicaid provider" means a person or government 247
entity with a valid provider agreement to provide medicaid 248
services to medicaid recipients. To the extent appropriate in 249
the context, "medicaid provider" includes a person or government 250
entity applying for a provider agreement, a former medicaid 251
provider, or both. 252

(L) "Medicaid services" means either or both of the 253
following: 254

(1) Mandatory services; 255

(2) Optional services that the medicaid program covers. 256

(M) "Medication synchronization" means a pharmacy service 257
that coordinates the filling, refilling, or short filling of all 258
of a medicaid recipient's chronic prescription drugs in a manner 259
that allows the recipient to pick up all of the prescriptions in 260
question on the same date each month. 261

(N) "Nursing facility" has the same meaning as in section 262
5165.01 of the Revised Code. 263

~~(N)~~(O) "Optional services" means the health care services 264
and items that may be covered by the medicaid state plan or a 265
federal medicaid waiver and for which the medicaid program 266
receives federal financial participation. 267

~~(O)~~(P) "Pharmacy provider" means a medicaid provider that 268
is a pharmacy licensed as a terminal distributor of dangerous 269
drugs. 270

(Q) "Prescribed drug" has the same meaning as in 42 C.F.R. 271
440.120. 272

~~(P)~~ (R) "Prescriber" has the same meaning as in section 273
4729.01 of the Revised Code. 274

(S) "Provider agreement" means an agreement to which all 275
of the following apply: 276

(1) It is between a medicaid provider and the department 277
of medicaid; 278

(2) It provides for the medicaid provider to provide 279
medicaid services to medicaid recipients; 280

(3) It complies with 42 C.F.R. 431.107(b). 281

~~(Q)~~ (T) "Schedule II" and "controlled substance" have the 282
same meanings as in section 3719.01 of the Revised Code. 283

(U) "Short fill" means providing, in conjunction with 284
medication synchronization, a supply of a drug that is less than 285
the prescribed amount. 286

(V) "Terminal distributor of dangerous drugs" has the same 287
meaning as in section 4729.01 of the Revised Code. 288

Sec. 5164.753. In December of every even-numbered year, 289
the medicaid director shall establish a dispensing fee, 290
effective the following July, for terminal distributors of 291
dangerous drugs that are providers of drugs under the medicaid 292
program. In establishing the dispensing fee, the director shall 293
take into consideration the results of the survey conducted 294
under section 5164.752 of the Revised Code. The dispensing fee 295
shall not be prorated on the basis of the days' supply of 296
prescribed drugs dispensed. 297

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.~~ 298
299
300

~~(B)~~The medicaid director may acquire or specify 301
technologies to provide information regarding medicaid recipient 302
eligibility, claims history, and drug coverage to medicaid 303
providers through electronic health record and e-prescribing 304
applications. 305

If such technologies are acquired or specified, the e- 306
prescribing applications shall enable a medicaid provider who is 307
a ~~licensed health professional authorized to prescribe drugs~~ 308
prescriber to use an electronic system to prescribe a drug for a 309
medicaid recipient. The purpose of the electronic system is to 310
eliminate the need for such medicaid providers to issue 311
prescriptions for medicaid recipients by handwriting or 312
telephone. The technologies acquired or specified by the 313
director also shall provide such medicaid providers with an up- 314
to-date, clinically relevant drug information database and a 315
system of electronically monitoring medicaid recipients' medical 316
history, drug regimen compliance, and fraud and abuse. 317

Sec. 5164.7511. The medicaid program shall do all of the 318
following regarding its coverage of prescribed drugs: 319

(A) Allow a pharmacy provider to engage in medication 320
synchronization for a medicaid recipient for the treatment of a 321
chronic condition, other than prescriptions for drugs that are 322
schedule II controlled substances, substances containing 323
opiates, or benzodiazepines, if the prescribed drugs are 324
dispensed in accordance with a plan agreed to by the medicaid 325
recipient, the prescriber, and a pharmacist of the pharmacy 326
provider. 327

(B) Prorate any cost-sharing charges instituted under 328
section 5162.20 of the Revised Code for prescribed drugs if the 329
drugs are short filled by a pharmacy provider. 330

(C) Determine dispensing fees exclusively on the total 331
number of prescriptions filled or refilled and not use payment 332
structures incorporating prorated dispensing fees determined by 333
calculation of the days' supply of drugs dispensed. 334

Sec. 5167.01. As used in this chapter: 335

(A) "Controlled substance" has the same meaning as in 336
section 3719.01 of the Revised Code. 337

(B) "Dual eligible individual" has the same meaning as in 338
section 5160.01 of the Revised Code. 339

(C) "Emergency services" has the same meaning as in the 340
"Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b) 341
(2). 342

(D) "Home and community-based services medicaid waiver 343
component" has the same meaning as in section 5166.01 of the 344
Revised Code. 345

(E) "Medicaid managed care organization" means a managed 346
care organization under contract with the department of medicaid 347
pursuant to section 5167.10 of the Revised Code. 348

(F) "Medicaid waiver component" has the same meaning as in 349
section 5166.01 of the Revised Code. 350

(G) "Medication synchronization" means a pharmacy service 351
that coordinates the filling, refilling, or short filling of all 352
of a medicaid recipient's chronic prescription drugs in a manner 353
that allows the recipient to pick up all of the prescriptions in 354
question on the same date each month. 355

(H) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code. 356
357

~~(H)~~(I) "Pharmacy provider" means a provider that is a pharmacy licensed as a terminal distributor of dangerous drugs. 358
359

(J) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code. 360
361

~~(I)~~(K) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code. 362
363

(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. 364
365
366
367

~~(J)~~(M) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code. 368
369

(N) "Schedule II" has the same meaning as in section 3719.01 of the Revised Code. 370
371

(O) "Short fill" means providing, in conjunction with medication synchronization, a supply of a drug that is less than the prescribed amount. 372
373
374

(P) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code. 375
376

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: 377
378
379
380
381

(1) Include coverage of prescribed drugs ~~for~~ in the 382

benefits package available to medicaid recipients enrolled in 383
the health insuring corporation; 384

(2) Allow a pharmacy provider to engage in medication 385
synchronization for a medicaid recipient for the treatment of a 386
chronic condition, other than prescriptions for drugs that are 387
schedule II controlled substances, substances containing 388
opiates, or benzodiazepines, if the prescribed drugs are 389
dispensed in accordance with a plan agreed to by the medicaid 390
recipient, the prescriber, and a pharmacist of the pharmacy 391
provider; 392

(3) Prorate any cost-sharing charges instituted under the 393
health insuring corporation's benefits package for prescribed 394
drugs if the drugs are short filled by a pharmacy provider; 395

(4) Determine dispensing fees exclusively on the total 396
number of prescriptions filled or refilled and not use payment 397
structures incorporating prorated dispensing fees determined by 398
calculation of the days' supply of drugs dispensed. 399

~~In~~ (B) In providing the required coverage of prescribed 400
drugs pursuant to this section, the a health insuring 401
corporation may, subject to the department's approval and the 402
limitations specified in division ~~(B)~~ (C) of this section, use 403
strategies for the management of drug utilization. 404

~~(B)~~ (C) The department shall not permit a health insuring 405
corporation to impose a prior authorization requirement in the 406
case of a drug to which all of the following apply: 407

(1) The drug is an antidepressant or antipsychotic. 408

(2) The drug is administered or dispensed in a standard 409
tablet or capsule form, except that in the case of an 410
antipsychotic, the drug also may be administered or dispensed in 411

a long-acting injectable form. 412

(3) The drug is prescribed by either of the following: 413

(a) A physician whom the health insuring corporation, 414
pursuant to division (C) of section 5167.10 of the Revised Code, 415
has credentialed to provide care as a psychiatrist; 416

(b) A psychiatrist practicing at a community mental health 417
services provider certified by the department of mental health 418
and addiction services under section 5119.36 of the Revised 419
Code. 420

(4) The drug is prescribed for a use that is indicated on 421
the drug's labeling, as approved by the federal food and drug 422
administration. 423

~~(C)~~ (D) The department shall permit a health insuring 424
corporation to develop and implement a pharmacy utilization 425
management program under which prior authorization through the 426
program is established as a condition of obtaining a controlled 427
substance pursuant to a prescription. 428

Section 2. That existing sections 1739.05, 5164.01, 429
5164.753, 5164.757, 5167.01, and 5167.12 of the Revised Code are 430
hereby repealed. 431

Section 3. Sections 1739.05 and 1751.68 of the Revised 432
Code, as amended or enacted by this act, apply only to 433
arrangements, policies, contracts, and agreements that are 434
created, delivered, issued for delivery, or renewed in this 435
state on or after January 1, 2016. Section 3923.602 of the 436
Revised Code, as enacted by this act, applies only to policies 437
of sickness and accident insurance delivered, issued for 438
delivery, or renewed in this state and public employee benefit 439
plans that are established or modified in this state on or after 440

January 1, 2016.

441