

As Reported by the House Health and Aging Committee

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Sub. H. B. No. 116

Representatives Brown, Ginter

**Cosponsors: Representatives Becker, Kuhns, Kraus, Lepore-Hagan, Huffman,
Barnes, Bishoff, Duffey, Ramos**

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 regarding 4
insurance and Medicaid coverage of medication 5
synchronization. 6

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

Section 1. That sections 1739.05, 5164.01, 5164.753, 7
5164.757, 5167.01, and 5167.12 be amended and sections 1751.68, 8
3923.602, 4729.20, and 5164.7511 of the Revised Code be enacted 9
to read as follows: 10

Sec. 1739.05. (A) A multiple employer welfare arrangement 11
that is created pursuant to sections 1739.01 to 1739.22 of the 12
Revised Code and that operates a group self-insurance program 13
may be established only if any of the following applies: 14

(1) The arrangement has and maintains a minimum enrollment 15
of three hundred employees of two or more employers. 16

(2) The arrangement has and maintains a minimum enrollment 17

of three hundred self-employed individuals. 18

(3) The arrangement has and maintains a minimum enrollment 19
of three hundred employees or self-employed individuals in any 20
combination of divisions (A) (1) and (2) of this section. 21

(B) A multiple employer welfare arrangement that is 22
created pursuant to sections 1739.01 to 1739.22 of the Revised 23
Code and that operates a group self-insurance program shall 24
comply with all laws applicable to self-funded programs in this 25
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 26
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 27
3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, 28
3923.38, 3923.581, 3923.602, 3923.63, 3923.80, 3923.85, 29
3924.031, 3924.032, and 3924.27 of the Revised Code. 30

(C) A multiple employer welfare arrangement created 31
pursuant to sections 1739.01 to 1739.22 of the Revised Code 32
shall solicit enrollments only through agents or solicitors 33
licensed pursuant to Chapter 3905. of the Revised Code to sell 34
or solicit sickness and accident insurance. 35

(D) A multiple employer welfare arrangement created 36
pursuant to sections 1739.01 to 1739.22 of the Revised Code 37
shall provide benefits only to individuals who are members, 38
employees of members, or the dependents of members or employees, 39
or are eligible for continuation of coverage under section 40
1751.53 or 3923.38 of the Revised Code or under Title X of the 41
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 42
Stat. 227, 29 U.S.C.A. 1161, as amended. 43

Sec. 1751.68. (A) As used in this section: 44

(1) "Cost-sharing" means the cost to an enrollee under an 45
individual or group health insuring corporation policy, 46

contract, or agreement according to any coverage limit, 47
copayment, coinsurance, deductible, or other out-of-pocket 48
expense requirements imposed by the policy, contract, or 49
agreement. 50

(2) "Drug" has the same meaning as in section 4729.01 of 51
the Revised Code. 52

(3) "Medication synchronization" means a pharmacy service 53
that synchronizes the filling or refilling of prescriptions in a 54
manner that allows the dispensed drugs to be obtained on the 55
same date each month. 56

(4) "Prescriber" has the same meaning as in section 57
4729.01 of the Revised Code. 58

(5) "Prescription" means a written, electronic, or oral 59
order issued by a prescriber for drugs or combinations or 60
mixtures of drugs to be used by a particular individual. 61

(B) Notwithstanding section 3901.71 of the Revised Code, 62
each health insuring corporation policy, contract, or agreement 63
that provides prescription drug coverage shall provide for 64
medication synchronization for an enrollee if all of the 65
following conditions are met: 66

(1) The enrollee elects to participate in medication 67
synchronization; 68

(2) The enrollee, the prescriber, and a pharmacist at a 69
network pharmacy agree that medication synchronization is in the 70
best interest of the enrollee; 71

(3) The prescription drug to be included in the medication 72
synchronization meets the requirements of division (C) of this 73
section. 74

<u>(C) To be eligible for inclusion in medication</u>	75
<u>synchronization for an enrollee, a drug must meet all of the</u>	76
<u>following requirements:</u>	77
<u>(1) Be covered by the policy, contract, or agreement;</u>	78
<u>(2) Be prescribed for the treatment and management of a</u>	79
<u>chronic disease or condition and be subject to refills;</u>	80
<u>(3) Satisfy all relevant prior authorization criteria;</u>	81
<u>(4) Not have quantity limits, dose optimization criteria,</u>	82
<u>or other requirements that would be violated if synchronized;</u>	83
<u>(5) Not have special handling or sourcing needs, as</u>	84
<u>determined by the policy, contract, or agreement, that require a</u>	85
<u>single, designated pharmacy to fill or refill the prescription;</u>	86
<u>(6) Be formulated so that the quantity or amount dispensed</u>	87
<u>can be effectively divided in order to achieve synchronization;</u>	88
<u>(7) Not be a schedule II controlled substance, opiate, or</u>	89
<u>benzodiazepine, as those terms are defined in section 3719.01 of</u>	90
<u>the Revised Code.</u>	91
<u>(D) (1) To provide for medication synchronization under</u>	92
<u>division (B) of this section, a policy, contract, or agreement</u>	93
<u>shall authorize coverage of a prescription drug subject to</u>	94
<u>medication synchronization when the drug is dispensed in a</u>	95
<u>quantity or amount that is less than a thirty-day supply.</u>	96
<u>(2) Except as provided in division (D) (3) of this section,</u>	97
<u>the requirement of division (D) (1) of this section applies only</u>	98
<u>once for each prescription drug subject to medication</u>	99
<u>synchronization for the same enrollee.</u>	100
<u>(3) Division (D) (2) of this section does not apply if any</u>	101

of the following occur: 102

(a) The prescriber changes the dosage or frequency of 103
administration of a prescription drug subject to medication 104
synchronization; 105

(b) The prescriber prescribes a different drug. 106

(E)(1) A policy, contract, or agreement that provides for 107
medication synchronization under division (B) of this section 108
shall permit and apply a prorated daily cost-sharing rate for a 109
supply of a prescription drug subject to medication 110
synchronization that is dispensed at a network pharmacy. 111

(2) Division (E)(1) of this section does not require a 112
policy, contract, or agreement to waive any cost sharing in its 113
entirety. 114

(F) A policy, contract, or agreement that provides for 115
medication synchronization under division (B) of this section 116
shall not use payment structures that incorporate dispensing 117
fees that are determined by calculating the days' supply of 118
drugs dispensed. Dispensing fees shall be determined exclusively 119
on the total number of prescriptions that are filled or 120
refilled. 121

(G) This section does not require a health insuring 122
corporation to provide to a network pharmacy or a pharmacist at 123
a network pharmacy any monetary or other financial incentive for 124
the purpose of encouraging the pharmacy or a pharmacist to 125
recommend medication synchronization to an enrollee. 126

Sec. 3923.602. (A) As used in this section: 127

(1) "Cost-sharing" means the cost to an insured under a 128
policy of sickness and accident insurance or a public employee 129

benefit plan according to any coverage limit, copayment, 130
coinsurance, deductible, or other out-of-pocket expense 131
requirements imposed by the policy or plan. 132

(2) "Drug" has the same meaning as in section 4729.01 of 133
the Revised Code. 134

(3) "Medication synchronization" means a pharmacy service 135
that synchronizes the filling or refilling of prescriptions in a 136
manner that allows the dispensed drugs to be obtained on the 137
same date each month. 138

(4) "Prescriber" has the same meaning as in section 139
4729.01 of the Revised Code. 140

(5) "Prescription" means a written, electronic, or oral 141
order issued by a prescriber for drugs or combinations or 142
mixtures of drugs to be used by a particular individual. 143

(B) Notwithstanding section 3901.71 of the Revised Code, 144
each policy of sickness and accident insurance that provides 145
prescription drug coverage and each public employee benefit plan 146
that provides prescription drug coverage shall provide for 147
medication synchronization for an insured if all of the 148
following conditions are met: 149

(1) The insured elects to participate in medication 150
synchronization; 151

(2) The insured, the prescriber, and a pharmacist at a 152
network pharmacy agree that medication synchronization is in the 153
best interest of the insured; 154

(3) The prescription drug to be included in the medication 155
synchronization meets the requirements of division (C) of this 156
section. 157

(C) To be eligible for inclusion in medication 158
synchronization for an insured, a drug must meet all of the 159
following requirements: 160

(1) Be covered by the policy or plan; 161

(2) Be prescribed for the treatment and management of a 162
chronic disease or condition and be subject to refills; 163

(3) Satisfy all relevant prior authorization criteria; 164

(4) Not have quantity limits, dose optimization criteria, 165
or other requirements that would be violated if synchronized; 166

(5) Not have special handling or sourcing needs, as 167
determined by the policy or plan, that require a single, 168
designated pharmacy to fill or refill the prescription; 169

(6) Be formulated so that the quantity or amount dispensed 170
can be effectively divided in order to achieve synchronization; 171

(7) Not be a schedule II controlled substance, opiate, or 172
benzodiazepine, as those terms are defined in section 3719.01 of 173
the Revised Code. 174

(D) (1) To provide for medication synchronization under 175
division (B) of this section, a policy or plan shall authorize 176
coverage of a prescription drug subject to medication 177
synchronization when the drug is dispensed in a quantity or 178
amount that is less than a thirty-day supply. 179

(2) Except as provided in division (D) (3) of this section, 180
the requirement of division (D) (1) of this section applies only 181
once for each prescription drug subject to medication 182
synchronization for the same insured. 183

(3) Division (D) (2) of this section does not apply if any 184

of the following occur: 185

(a) The prescriber changes the dosage or frequency of 186
administration of a prescription drug subject to medication 187
synchronization; 188

(b) The prescriber prescribes a different drug. 189

(E) (1) A policy or plan that provides for medication 190
synchronization under division (B) of this section shall permit 191
and apply a prorated daily cost-sharing rate for a supply of a 192
prescription drug subject to medication synchronization that is 193
dispensed at a network pharmacy. 194

(2) Division (E) (1) of this section does not require a 195
policy or plan to waive any cost sharing in its entirety. 196

(F) A policy or plan that provides for medication 197
synchronization under division (B) of this section shall not use 198
payment structures that incorporate dispensing fees that are 199
determined by calculating the days' supply of drugs dispensed. 200
Dispensing fees shall be determined exclusively on the total 201
number of prescriptions that are filled or refilled. 202

(G) This section does not require a sickness and accident 203
insurer or public employee benefit plan to provide to a network 204
pharmacy or a pharmacist at a network pharmacy any monetary or 205
other financial incentive for the purpose of encouraging the 206
pharmacy or pharmacist to recommend medication synchronization 207
to an insured. 208

Sec. 4729.20. As used in this section, "medication 209
synchronization" means a pharmacy service that synchronizes the 210
filling or refilling of prescriptions in a manner that allows 211
the dispensed drugs to be obtained on the same date each month. 212

(B) A pharmacist may dispense a drug in a manner that 213
varies from the prescription for the drug by dispensing a 214
quantity or amount of the drug that is less than a thirty-day 215
supply, if the pharmacist's action is taken solely for the 216
purpose of medication synchronization pursuant to section 217
1751.68, 3923.602, 5164.7511, or 5167.12 of the Revised Code. 218

Sec. 5164.01. As used in this chapter: 219

(A) "Early and periodic screening, diagnostic, and 220
treatment services" has the same meaning as in the "Social 221
Security Act," section 1905(r), 42 U.S.C. 1396d(r). 222

(B) "Federal financial participation" has the same meaning 223
as in section 5160.01 of the Revised Code. 224

(C) "Healthcheck" means the component of the medicaid 225
program that provides early and periodic screening, diagnostic, 226
and treatment services. 227

(D) "Home and community-based services medicaid waiver 228
component" has the same meaning as in section 5166.01 of the 229
Revised Code. 230

(E) "Hospital" has the same meaning as in section 3727.01 231
of the Revised Code. 232

(F) "ICDS participant" means a dual eligible individual 233
who participates in the integrated care delivery system. 234

(G) "ICF/IID" has the same meaning as in section 5124.01 235
of the Revised Code. 236

(H) "Integrated care delivery system" and "ICDS" mean the 237
demonstration project authorized by section 5164.91 of the 238
Revised Code. 239

(I) "Mandatory services" means the health care services 240
and items that must be covered by the medicaid state plan as a 241
condition of the state receiving federal financial participation 242
for the medicaid program. 243

(J) "Medicaid managed care organization" has the same 244
meaning as in section 5167.01 of the Revised Code. 245

(K) "Medicaid provider" means a person or government 246
entity with a valid provider agreement to provide medicaid 247
services to medicaid recipients. To the extent appropriate in 248
the context, "medicaid provider" includes a person or government 249
entity applying for a provider agreement, a former medicaid 250
provider, or both. 251

(L) "Medicaid services" means either or both of the 252
following: 253

(1) Mandatory services; 254

(2) Optional services that the medicaid program covers. 255

(M) "Medication synchronization" means a pharmacy service 256
that synchronizes the filling or refilling of prescriptions for 257
drugs in a manner that allows the prescribed drugs to be 258
obtained on the same date each month. 259

(N) "Nursing facility" has the same meaning as in section 260
5165.01 of the Revised Code. 261

~~(N)~~(O) "Optional services" means the health care services 262
and items that may be covered by the medicaid state plan or a 263
federal medicaid waiver and for which the medicaid program 264
receives federal financial participation. 265

~~(O)~~(P) "Pharmacy provider" means a medicaid provider that 266
is a pharmacy licensed as a terminal distributor of dangerous 267

<u>drugs.</u>	268
<u>(Q)</u> "Prescribed drug" has the same meaning as in 42 C.F.R. 440.120.	269 270
(P) <u>(R)</u> " <u>Prescriber</u> " has the same meaning as in section 4729.01 of the Revised Code.	271 272
<u>(S)</u> "Provider agreement" means an agreement to which all of the following apply:	273 274
(1) It is between a medicaid provider and the department of medicaid;	275 276
(2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;	277 278
(3) It complies with 42 C.F.R. 431.107(b).	279
(Q) <u>(T)</u> " <u>Terminal distributor of dangerous drugs</u> " has the same meaning as in section 4729.01 of the Revised Code.	280 281
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. <u>The dispensing fee shall not be prorated on the basis of the days' supply of prescribed drugs dispensed.</u>	282 283 284 285 286 287 288 289 290
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.	291 292 293
(B) The medicaid director may acquire or specify	294

technologies to provide information regarding medicaid recipient 295
eligibility, claims history, and drug coverage to medicaid 296
providers through electronic health record and e-prescribing 297
applications. 298

If such technologies are acquired or specified, the e- 299
prescribing applications shall enable a medicaid provider who is 300
a ~~licensed health professional authorized to prescribe drugs~~ 301
prescriber to use an electronic system to prescribe a drug for a 302
medicaid recipient. The purpose of the electronic system is to 303
eliminate the need for such medicaid providers to issue 304
prescriptions for medicaid recipients by handwriting or 305
telephone. The technologies acquired or specified by the 306
director also shall provide such medicaid providers with an up- 307
to-date, clinically relevant drug information database and a 308
system of electronically monitoring medicaid recipients' medical 309
history, drug regimen compliance, and fraud and abuse. 310

Sec. 5164.7511. The medicaid program shall do all of the 311
following regarding its coverage of prescribed drugs: 312

(A) Allow a pharmacy provider to engage in medication 313
synchronization for a medicaid recipient for the treatment of a 314
chronic disease or condition, other than a prescription for a 315
drug that is a schedule II controlled substance, opiate, or 316
benzodiazepine, as those terms are defined in section 3719.01 of 317
the Revised Code, if the medicaid recipient, the prescriber, and 318
a pharmacist of the pharmacy provider agree that medication 319
synchronization is in the recipient's best interest; 320

(B) Prorate any cost-sharing charges instituted under 321
section 5162.20 of the Revised Code that apply in the case of a 322
prescribed drug, if less than a thirty-day supply of the drug is 323
dispensed by a pharmacy provider to the recipient to achieve 324

<u>medication synchronization;</u>	325
<u>(C) Determine dispensing fees exclusively on the total</u>	326
<u>number of prescriptions filled or refilled and not use payment</u>	327
<u>structures incorporating dispensing fees determined by</u>	328
<u>calculation of the days' supply of drugs dispensed.</u>	329
Sec. 5167.01. As used in this chapter:	330
(A) "Controlled substance" has the same meaning as in	331
section 3719.01 of the Revised Code.	332
(B) "Dual eligible individual" has the same meaning as in	333
section 5160.01 of the Revised Code.	334
(C) "Emergency services" has the same meaning as in the	335
"Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b)	336
(2).	337
(D) "Home and community-based services medicaid waiver	338
component" has the same meaning as in section 5166.01 of the	339
Revised Code.	340
(E) "Medicaid managed care organization" means a managed	341
care organization under contract with the department of medicaid	342
pursuant to section 5167.10 of the Revised Code.	343
(F) "Medicaid waiver component" has the same meaning as in	344
section 5166.01 of the Revised Code.	345
(G) <u>"Medication synchronization" means a pharmacy service</u>	346
<u>that synchronizes the filling or refilling of prescriptions for</u>	347
<u>drugs in a manner that allows the prescribed drugs to be</u>	348
<u>obtained on the same date each month.</u>	349
(H) <u>"Nursing facility"</u> has the same meaning as in section	350
5165.01 of the Revised Code.	351

~~(H)~~ (I) "Pharmacy provider" means a provider that is a 352
pharmacy licensed as a terminal distributor of dangerous drugs. 353

(J) "Prescribed drug" has the same meaning as in section 354
5164.01 of the Revised Code. 355

~~(I)~~ (K) "Prescriber" has the same meaning as in section 356
4729.01 of the Revised Code. 357

(L) "Provider" means any person or government entity that 358
furnishes services to a medicaid recipient enrolled in a 359
medicaid managed care organization, regardless of whether the 360
person or entity has a provider agreement. 361

~~(J)~~ (M) "Provider agreement" has the same meaning as in 362
section 5164.01 of the Revised Code. 363

(N) "Schedule II" has the same meaning as in section 364
3719.01 of the Revised Code. 365

(O) "Terminal distributor of dangerous drugs" has the same 366
meaning as in section 4729.01 of the Revised Code. 367

Sec. 5167.12. (A) When contracting under section 5167.10 368
of the Revised Code with a managed care organization that is a 369
health insuring corporation, the department of medicaid shall 370
require the health insuring corporation to ~~provide~~ do all of the 371
following: 372

(1) Include coverage of prescribed drugs ~~for~~ in the 373
benefits package available to medicaid recipients enrolled in 374
the health insuring corporation; 375

(2) Allow a pharmacy provider to engage in medication 376
synchronization for a medicaid recipient for the treatment of a 377
chronic disease or condition, other than a prescription for a 378
drug that is a schedule II controlled substance, opiate, or 379

benzodiazepine, as those terms are defined in section 3719.01 of 380
the Revised Code, if the medicaid recipient, the prescriber, and 381
a pharmacist of the pharmacy provider agree that medication 382
synchronization is in the recipient's best interest; 383

(3) Prorate any cost-sharing charges instituted under the 384
health insuring corporation's benefits package that apply in the 385
case of a prescribed drug, if less than a thirty-day supply of 386
the drug is dispensed by a pharmacy provider to the recipient to 387
achieve medication synchronization; 388

(4) Determine dispensing fees exclusively on the total 389
number of prescriptions filled or refilled and not use payment 390
structures incorporating dispensing fees determined by 391
calculation of the days' supply of drugs dispensed. 392

~~In~~ (B) In providing the required coverage of prescribed 393
drugs pursuant to this section, the a health insuring 394
corporation may, subject to the department's approval and the 395
limitations specified in division ~~(B)~~ (C) of this section, use 396
strategies for the management of drug utilization. 397

~~(B)~~ (C) The department shall not permit a health insuring 398
corporation to impose a prior authorization requirement in the 399
case of a drug to which all of the following apply: 400

(1) The drug is an antidepressant or antipsychotic. 401

(2) The drug is administered or dispensed in a standard 402
tablet or capsule form, except that in the case of an 403
antipsychotic, the drug also may be administered or dispensed in 404
a long-acting injectable form. 405

(3) The drug is prescribed by either of the following: 406

(a) A physician whom the health insuring corporation, 407

pursuant to division (C) of section 5167.10 of the Revised Code, 408
has credentialed to provide care as a psychiatrist; 409

(b) A psychiatrist practicing at a community mental health 410
services provider certified by the department of mental health 411
and addiction services under section 5119.36 of the Revised 412
Code. 413

(4) The drug is prescribed for a use that is indicated on 414
the drug's labeling, as approved by the federal food and drug 415
administration. 416

~~(C)~~ (D) The department shall permit a health insuring 417
corporation to develop and implement a pharmacy utilization 418
management program under which prior authorization through the 419
program is established as a condition of obtaining a controlled 420
substance pursuant to a prescription. 421

Section 2. That existing sections 1739.05, 5164.01, 422
5164.753, 5164.757, 5167.01, and 5167.12 of the Revised Code are 423
hereby repealed. 424

Section 3. Sections 1739.05 and 1751.68 of the Revised 425
Code, as amended or enacted by this act, apply only to 426
arrangements, policies, contracts, and agreements that are 427
created, delivered, issued for delivery, or renewed in this 428
state on or after January 1, 2016. Section 3923.602 of the 429
Revised Code, as enacted by this act, applies only to policies 430
of sickness and accident insurance delivered, issued for 431
delivery, or renewed in this state and public employee benefit 432
plans that are established or modified in this state on or after 433
January 1, 2016. 434