

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 253

Senator Tavares

Cosponsors: Senators Yuko, Thomas, Sykes, Skindell, Schiavoni

A BILL

To amend section 5167.12 and to enact sections 1
125.94, 125.941, 125.942, 3962.01, 3962.02, and 2
5164.7512 of the Revised Code to establish 3
requirements regarding prescription drug and 4
medical equipment pricing. 5

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

Section 1. That section 5167.12 be amended and sections 6
125.94, 125.941, 125.942, 3962.01, 3962.02, and 5164.7512 of the 7
Revised Code be enacted to read as follows: 8

Sec. 125.94. As used in this section and in sections 9
125.941 and 125.942 of the Revised Code: 10

(A) "Prescription drug" means any drug to which either of 11
the following applies: 12

(1) Under the "Food, Drug, and Cosmetic Act," 21 U.S.C. 13
301 et seq., the drug is required to bear a label containing the 14
legend "Caution: Federal law prohibits dispensing without 15
prescription" or any similar restrictive statement or the drug 16
may be dispensed only upon a prescription. 17

(2) Under Chapter 3715. or 3719. of the Revised Code, the 18
drug may be dispensed only upon a prescription. 19

(B) "State retirement system" means the public employees 20
retirement system, state teachers retirement system, school 21
employees retirement system, state highway patrol retirement 22
system, or the Ohio police and fire pension fund. 23

(C) "VA national formulary" means the list containing the 24
prescription drugs and medical equipment that must be available 25
for prescription at all United States department of veterans 26
affairs (VA) facilities and are generally covered under VA 27
pharmacy benefits. 28

Sec. 125.941. (A) The department of administrative 29
services shall create a state medical item formulary. The 30
formulary shall contain all prescription drugs and items of 31
medical equipment on the VA national formulary. The state 32
medical item formulary also shall specify the per unit price 33
that the United States department of veterans affairs pays, 34
reimburses, or otherwise provides benefits for each drug or item 35
on the VA national formulary. 36

(B) The department of administrative services shall review 37
the state medical item formulary at least quarterly and update 38
it based on changes to the VA national formulary and the per 39
unit prices described in division (A) of this section. 40

Sec. 125.942. (A) (1) When paying, reimbursing, or 41
otherwise providing benefits for a prescription drug or item of 42
medical equipment on the state medical item formulary, an entity 43
identified in division (A) (2) of this section shall not make any 44
payment or reimbursement or otherwise provide benefits for a 45
unit of the drug or item in an amount that exceeds the per unit 46

price that the United States department of veterans affairs 47
pays, reimburses, or otherwise provides benefits for a unit of 48
the same drug or item. 49

(2) All of the following are subject to division (A)(1) of 50
this section: 51

(a) A state department, agency, or entity; 52

(b) A state retirement system; 53

(c) A public employee benefit plan or other insurance or 54
pharmacy benefit plan offered by a state department, agency, or 55
entity or by a state retirement system. 56

(B) The department of administrative services shall 57
monitor compliance with division (A) of this section. Not later 58
than the first day of December of each year, the department 59
shall submit a report to the governor and general assembly 60
summarizing its findings from the monitoring efforts for the 61
relevant time period. The report to the general assembly shall 62
be submitted in accordance with section 101.68 of the Revised 63
Code. 64

Sec. 3962.01. As used in this chapter: 65

(A) (1) Except as provided in division (A)(2) of this 66
section, "health insurer" means any of the following: 67

(a) A person authorized under Title XXXIX of the Revised 68
Code to engage in the business of sickness and accident 69
insurance in this state; 70

(b) A health insuring corporation; 71

(c) A multiple employer welfare arrangement; 72

(d) Any other person or government entity that is 73

obligated pursuant to a benefits contract to pay or reimburse 74
for covered health services rendered to beneficiaries under such 75
a contract. 76

(2) "Health insurer" excludes all of the following: 77

(a) Any of the following that are subject to section 78
125.942 of the Revised Code: a state department, agency, or 79
entity; a state retirement system; or a public employee benefit 80
plan or other insurance or pharmacy benefit plan offered by a 81
state department, agency, or entity or a state retirement 82
system; 83

(b) The medicaid program; 84

(c) A medicaid managed care organization, as defined in 85
section 5167.01 of the Revised Code. 86

(B) "Prescription drug" has the same meaning as in section 87
125.94 of the Revised Code. 88

(C) "State medical item formulary" means the formulary 89
created by the department of administrative services under 90
section 125.941 of the Revised Code. 91

(D) "State retirement system" means the public employees 92
retirement system, state teachers retirement system, school 93
employees retirement system, state highway patrol retirement 94
system, or the Ohio police and fire pension fund. 95

Sec. 3962.02. (A) When paying, reimbursing, or otherwise 96
providing benefits for a prescription drug or item of medical 97
equipment on the state medical item formulary, a health insurer 98
shall not make any payment or reimbursement or otherwise provide 99
benefits for a unit of the drug or item in an amount that 100
exceeds the per unit price that the United States department of 101

veterans affairs pays or reimburses for a unit of the same drug 102
or item. 103

(B) The superintendent of insurance shall monitor 104
compliance with division (A) of this section. Not later than the 105
first day of December of each year, the superintendent shall 106
submit a report to the governor and general assembly summarizing 107
the superintendent's findings from the monitoring efforts for 108
the relevant time period. The reports to the general assembly 109
shall be submitted in accordance with section 101.68 of the 110
Revised Code. 111

Sec. 5164.7512. (A) As used in this section: 112

(1) "Prescription drug" has the same meaning as in section 113
125.94 of the Revised Code. 114

(2) "State medical item formulary" means the formulary 115
created by the department of administrative services under 116
section 125.941 of the Revised Code. 117

(B) When paying, reimbursing, or otherwise providing 118
benefits for a prescription drug or item of medical equipment on 119
the state medical item formulary, the department of medicaid 120
shall not make any payment or reimbursement or otherwise provide 121
benefits for a unit of the drug or item in an amount that 122
exceeds the per unit price that the United States department of 123
veterans affairs pays or reimburses for a unit of the same drug 124
or item. 125

(C) The executive director of the office of health 126
transformation shall monitor compliance with division (B) of 127
this section, including compliance with that division by 128
medicaid managed care organizations pursuant to division (D)(3) 129
of section 5167.12 of the Revised Code. Not later than the first 130

day of December of each year, the executive director shall 131
submit a report to the governor and general assembly summarizing 132
the executive director's findings from those monitoring efforts 133
for the immediately preceding fiscal year. The report to the 134
general assembly shall be submitted in accordance with section 135
101.68 of the Revised Code. 136

Sec. 5167.12. (A) When contracting under section 5167.10 137
of the Revised Code with a managed care organization that is a 138
health insuring corporation, the department of medicaid shall 139
require the health insuring corporation to provide coverage of 140
prescribed drugs for medicaid recipients enrolled in the health 141
insuring corporation. In providing the required coverage, the 142
health insuring corporation may use strategies for the 143
management of drug utilization, but any such strategies are 144
subject to divisions (B) and (E) of this section and the 145
department's approval. 146

(B) The department shall not permit a health insuring 147
corporation to impose a prior authorization requirement in the 148
case of a drug to which all of the following apply: 149

(1) The drug is an antidepressant or antipsychotic. 150

(2) The drug is administered or dispensed in a standard 151
tablet or capsule form, except that in the case of an 152
antipsychotic, the drug also may be administered or dispensed in 153
a long-acting injectable form. 154

(3) The drug is prescribed by any of the following: 155

(a) A physician who is allowed by the health insuring 156
corporation to provide care as a psychiatrist through its 157
credentialing process, as described in division (C) of section 158
5167.10 of the Revised Code; 159

(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) Subject to division ~~(E)~~ (D) (1) of this section, the department shall authorize 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.

(D) The department shall require a health insuring corporation to ~~comply with section 5164.7511 of the Revised Code with respect to medication synchronization.~~

~~(E) The department shall require a health insuring corporation to comply with~~ do all of the following:

(1) Comply with section 5164.091 of the Revised Code as if the health insuring corporation were the department;

<u>(2) Comply with section 5164.7511 of the Revised Code;</u>	189
<u>(3) Comply with section 5164.7512 of the Revised Code as</u>	190
<u>if the health insuring corporation were the department.</u>	191
Section 2. That existing section 5167.12 of the Revised	192
Code is hereby repealed.	193