

CHAPTER 233
FORMERLY
HOUSE BILL NO. 265

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE COVERAGE FOR ORAL AND INTRAVENOUS ANTICANCER MEDICATIONS.

WHEREAS, the Legislature finds that advances in medical research have led to significant new developments of various medical treatments; and

WHEREAS, these treatments offer patients a wide range of new choices to combat very serious diseases; and

WHEREAS, the area of cancer treatment has been one of the fields that has seen these significant new medical advancements; and

WHEREAS, in recent years, oral anticancer medications have been developed that provide viable alternatives to traditional intravenous anticancer treatments for patients; and

WHEREAS, these oral anticancer medications offer the treating physician and the patient a choice in relation to treatment options; and

WHEREAS, this choice is sometimes limited because the oral anticancer medications are, in most cases, covered under the prescription drug benefit of an insurance plan rather than under the major medical insurance benefit of an insurance plan; and

WHEREAS, this discrepancy in coverage can limit a patient's ability to choose an oral anticancer medication because of the cost associated with the disparate treatment;

NOW, THEREFORE:

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

Section 1. Amend Chapter 33, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3338A. Equal reimbursement for oral and intravenous anticancer medication.

(a) Every individual policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued for delivery, renewed, modified, altered, or amended in this State on or after January 1, 2013, and which provides medical, major medical, or similar comprehensive-type coverage, and provides coverage for prescription drugs, and which also provides coverage for anticancer medication, must provide coverage for a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells, and must apply the lower cost sharing of either:

(1) anticancer medication under the prescription drug benefit, or

(2) intravenous or injected anticancer medications.

For purposes of this section, the term 'cost sharing' may include co-pays, coinsurance, and deductibles, as considered appropriate by the Commissioner.

(b) An insurer who provides coverage under this section and any participating entity through which the insurer offers health services may not:

(1) Vary the terms of the policy for the purpose of or with the effect of avoiding compliance with this section;

(2) Provide incentives, monetary or otherwise, to encourage a covered person to accept less than the minimum protections available under this section;

(3) Penalize in any way or reduce or limit the compensation of a healthcare practitioner for recommending or providing care to a covered person in accordance with this section;

(4) Provide incentives, monetary or otherwise, to a healthcare practitioner relating to the services provided pursuant to this section, intended to induce or have the effect of inducing the practitioner to provide care to a covered person in a manner inconsistent with this section; or

(5) Achieve compliance with this section by imposing an increase in cost sharing for an oral, intravenous, or injected anticancer medication covered under the policy on and following the effective date of this act.

(c) Nothing in this section may be interpreted to prohibit an insurer from requiring prior authorization for any anticancer treatment.

(d) Nothing in this section may be interpreted to require coverage for anticancer medication.

Section 2. Amend Chapter 35, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 3555A. Equal reimbursement for oral and intravenous anticancer medication.

(a) Every group or blanket policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued for delivery, renewed, modified, altered, or amended in this State on or after January 1, 2013, and which provides medical, major medical, or similar comprehensive-type coverage, and provides coverage for prescription drugs, and which also provides coverage for anticancer medication, must provide coverage for a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells, and must apply the lower cost sharing of either:

(1) anticancer medication under the prescription drug benefit, or

(2) intravenous or injected anticancer medications.

For purposes of this section, the term ‘cost sharing’ may include co-pays, coinsurance, and deductibles, as considered appropriate by the Commissioner.

(b) An insurer who provides coverage under this section and any participating entity through which the insurer offers health services may not:

(1) Vary the terms of the policy for the purpose of or with the effect of avoiding compliance with this section;

(2) Provide incentives, monetary or otherwise, to encourage a covered person to accept less than the minimum protections available under this section;

(3) Penalize in any way or reduce or limit the compensation of a healthcare practitioner for recommending or providing care to a covered person in accordance with this section;

(4) Provide incentives, monetary or otherwise, to a healthcare practitioner relating to the services provided pursuant to this section, intended to induce or have the effect of inducing the practitioner to provide care to a covered person in a manner inconsistent with this section; or

(5) Achieve compliance with this section by imposing an increase in cost sharing for an oral, intravenous, or injected anticancer medication covered under the policy on and following the effective date of this act.

(c) Nothing in this section may be interpreted to prohibit an insurer from requiring prior authorization for any anticancer treatment.

(d) Nothing in this section may be interpreted to require coverage for anticancer medication.

Section 3. This Act is “The Delaware Cancer Treatment Access Act.”

Approved May 01, 2012