

LAWS OF DELAWARE  
VOLUME 84  
CHAPTER 338  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 364

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CANCER COVERAGE.

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

Section 1. Amend § 3338B, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3338B. Coverage of drugs approved for treatment of certain cancers [For application of this section, see 81 Del. Laws, c. 180, §§ 3 and 4].

(a) No 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 by any health insurer, health service corporation or health maintenance organization that directly or indirectly covers the treatment of cancer shall limit or exclude coverage for a drug approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of ~~such a different~~ a different drug or drugs; provided, however that the use of such drug or drugs is consistent with best practices for the treatment of stage 4 advanced, metastatic cancer or, in the case of other cancers, the use of the drug is supported by national clinical guidelines, national standards of care, or peer reviewed medical literature for the treatment of the cancer, or in the case of targeted therapy, the target at issue.

(b) No 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 by any health insurer, health service corporation, or health maintenance organization that directly or indirectly cover the associated conditions of metastatic cancer shall limit or exclude coverage for drugs approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of a different drug or drugs; provided, however that the use of such drug is consistent with best practices for the treatment of the associated conditions of metastatic cancer and is supported by national clinical guidelines, national standards of care, or peer reviewed medical literature.

(c) For purposes of this section, “associated conditions” mean the symptoms or side effects associated with metastatic cancer or its treatment and which, in the judgment of the health care practitioner, further jeopardizes the health of a patient if left untreated.

Section 2. Amend § 3555B, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3555B. Coverage of drugs approved for treatment of certain cancers [For application of this section, see 81 Del. Laws, c. 180, §§ 3 and 4].

(a) No 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 that directly or indirectly covers the treatment of cancer shall limit or exclude coverage for a drug approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of such a different drug or drugs; provided, however that the use of such drug or drugs is consistent with best practices for the treatment of stage 4 advanced, metastatic cancer or in the case of other cancers, the use of the drug is supported by national clinical guidelines, national standards of care, or for the treatment of the cancer, or in the case of targeted therapy, the target at issue.

(b) No 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 that directly or indirectly cover the associated conditions of metastatic cancer shall limit or exclude coverage for drugs approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of a different drug or drugs; provided, however that the use of such drug is consistent with best practices for the treatment of the associated conditions of metastatic cancer and is supported by national clinical guidelines, national standards of care, or peer reviewed medical literature.

(c) For purposes of this section, “associated conditions” mean the symptoms or side effects associated with metastatic cancer or its treatment and which, in the judgment of the health care practitioner, further jeopardizes the health of a patient if left untreated.

Section 3. This Act applies to all policies, contracts, or certificates, issued, renewed, modified, altered, amended, or reissued after December 31, 2025.

Approved August 2, 2024