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Morrison, Wilson-Anton; Sens. Hoffner, Sokola

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

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:

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

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

5 (a) No individual policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued  
6 for delivery, renewed, modified, altered, or amended in this State by any health insurer, health service corporation or health  
7 maintenance organization that directly or indirectly covers the treatment of cancer shall limit or exclude coverage for a drug  
8 approved by the United States Food and Drug Administration by mandating that the insured shall first be required to fail to  
9 successfully respond to a different drug or drugs or prove a history of failure of ~~such a different~~ a different drug or drugs; provided,  
10 however that the use of such drug or drugs is consistent with best practices for the treatment of stage 4 advanced, metastatic  
11 cancer or, in the case of other cancers, the use of the drug is supported by national clinical guidelines, national standards of  
12 care, or peer reviewed medical literature for the treatment of the cancer, or in the case of targeted therapy, the target at  
13 issue.

14 (b) No individual policy or contract of health insurance, or certificate issued thereunder, which is delivered, issued  
15 for delivery, renewed, modified, altered, or amended in this State by any health insurer, health service corporation, or health  
16 maintenance organization that directly or indirectly cover the associated conditions of metastatic cancer shall limit or  
17 exclude coverage for drugs approved by the United States Food and Drug Administration by mandating that the insured  
18 shall first be required to fail to successfully respond to a different drug or drugs or prove a history of failure of a different  
19 drug or drugs; provided, however that the use of such drug is consistent with best practices for the treatment of the  
20 associated conditions of metastatic cancer and is supported by national clinical guidelines, national standards of care, or  
21 peer reviewed medical literature.

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

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

27 § 3555B. Coverage of drugs approved for treatment of certain cancers [For application of this section, see 81 Del.  
28 Laws, c. 180, §§ 3 and 4].

29 (a) No group or blanket policy or contract of health insurance, or certificate issued ~~thereunder~~ thereunder, which is  
30 delivered, issued for delivery, renewed, modified, altered, or amended in this State that directly or indirectly covers the  
31 treatment of cancer shall limit or exclude coverage for a drug approved by the United States Food and Drug Administration  
32 by mandating that the insured shall first be required to fail to successfully respond to a different drug or drugs or prove a  
33 history of failure of such ~~a~~ a different drug or drugs; provided, however that the use of such drug or drugs is consistent with  
34 best practices for the treatment of stage 4 advanced, metastatic cancer or in the case of other cancers, the use of the drug is  
35 supported by national clinical guidelines, national standards of care, or for the treatment of the cancer, or in the case of  
36 targeted therapy, the target at issue.

37 (b) No group or blanket policy or contract of health insurance, or certificate issued thereunder, which is delivered,  
38 issued for delivery, renewed, modified, altered, or amended in this State that directly or indirectly cover the associated  
39 conditions of metastatic cancer shall limit or exclude coverage for drugs approved by the United States Food and Drug  
40 Administration by mandating that the insured shall first be required to fail to successfully respond to a different drug or  
41 drugs or prove a history of failure of a different drug or drugs; provided, however that the use of such drug is consistent  
42 with best practices for the treatment of the associated conditions of metastatic cancer and is supported by national clinical  
43 guidelines, national standards of care, or peer reviewed medical literature.

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

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

#### SYNOPSIS

This Act requires that individual, blanket, and group health insurance carriers cover drug treatment for the associated conditions of metastatic cancer in the same way treatment for metastatic cancer is covered. Specifically, it requires insurance companies to cover any FDA approved drug prescribed to treat the side effects of metastatic cancer

treatment and prohibits insurance companies from mandating that patients first fail to respond to a different drug or prove a history of failure of such drug. Technical changes are also made to comply with the Delaware Legislative Drafting Manual.