



SPONSOR: Rep. Carson & Sen. Poore

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 441

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO PHARMACY BENEFIT MANAGER  
PRIOR AUTHORIZATION OF EMERGENCY PRESCRIPTIONS AND PRESCRIPTIONS FOR CHRONIC OR LONG-  
TERM CONDITIONS.

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

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

3 Subchapter III. Prior Authorization of Emergency Prescriptions and Prescriptions for Chronic or Long-Term Conditions

4 § 3331A Definitions.

5 As used in this subchapter:

6 (1) "Prior authorization" means a requirement by a carrier or health-insurance plan that providers submit a  
7 request or other prior notification to the carrier for evaluation of appropriateness of the request or if the prescription is  
8 medically necessary before treatment is rendered. Prior authorization lets the insured and provider know in advance  
9 which pharmaceuticals are considered by the insurer to be medically necessary.

10 (2) "Pharmacy benefit manager" has the meaning given in § 3302A of this title.

11 § 3332A Prior Authorization of Emergency Prescriptions.

12 (a) A pharmacy benefit manager may not require prior authorization for coverage of:

13 (1) The length of an initial prescription for a nonnarcotic or nonbenzodiazepine drug that is prescribed in an  
14 emergency situation; or

15 (2) No more than 72 hours of an initial prescription for a narcotic or benzodiazepine drug prescribed in an  
16 emergency situation.

17 § 3333A Prior Authorization of Prescriptions for Chronic or Long-Term Conditions.

18 (a) A prior authorization form for a prescription drug shall include a question regarding whether the prescription  
19 drug is for a chronic or long-term condition for which the prescription drug may be necessary for the life of the patient.

20 (b) If a prescriber indicates on a prior authorization form that the prescription drug is for a chronic or long-term  
21 condition for which the prescription drug may be necessary for the life of the patient, the pharmacy benefit manager may  
22 not request a reauthorization for the same prescription drug.

23           (c) A pharmacy benefit manager shall retain a database of information received from prior authorization forms in a  
24 manner that allows a prescriber to update the information without resubmitting information that has not changed for future  
25 prior authorizations for the same patient and condition.

26           (d) For each prescription drug that requires a prior authorization from a pharmacy benefit manager, the pharmacy  
27 benefit manager shall establish a list of alternative prescription drugs that do not require prior authorization and in the event  
28 the prior authorization is rejected, this list shall be provided to the prescriber electronically with the rejection notice.

29           (e) In the same communication in which a pharmacy benefit manager or the pharmacy benefit manager's agent  
30 requests a prior authorization for a prescription drug from a prescriber, the pharmacy benefit manager or the pharmacy  
31 benefit manager's agent shall provide the prescriber with a list of alternative prescription drugs of the same class and family  
32 as the requested drug that do not require prior authorization for the specific drug for which the prior authorization is being  
33 requested.

#### SYNOPSIS

Due to the delay in the prior authorization process by pharmacy benefit managers, many patients end up waiting days to weeks for medications to be filled that are prescribed on an emergency basis or for medications that have been previously prescribed for chronic and long-term conditions that must go through the prior authorization process again. To reduce the delay and hardship of this waiting process, this bill will put into place specified time tables to fill emergency prescriptions and to make subsequent prior authorizations for chronic and long-term conditions to be filled more readily.