SPONSOR: Rep. Carson & Sen. Poore

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 441
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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:

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

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

§ 3331A Definitions.

As used in this subchapter:

(1) “Emergency” means a situation that will result in loss of life, limb or organ function.

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

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

§ 3332A Prior Authorization of Emergency Prescriptions.

(a) A pharmacy benefit manager may not require prior authorization for coverage of a 72 hour supply of medication that is for a non-controlled substance in an emergency situation.

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

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

(b) If a prescriber indicates on a prior authorization form that the prescription medication is for a chronic or long-term condition for which the prescription medication may be necessary for the life of the patient, the pharmacy benefit manager may not request a reauthorization for the same prescription medication more frequently than every 12 months.

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(c) In the same communication in which a pharmacy benefit manager or the pharmacy benefit manager's agent requests a prior authorization for a prescription medication that has therapeutically equivalent medications that do not require a prior authorization from a prescriber, the pharmacy benefit manager or the pharmacy benefit manager's agent shall provide the prescriber with a list of alternative prescription medications of the same class and family as the requested medication.

(d) Prescribers that utilize e-prescribing shall receive alternate medications from the pharmacy benefit manager for prescription medications that do not require a prior authorization before the completion of the e-prescribing transaction.

(e) A pharmacy benefit manager or the pharmacy benefit manager's agent shall provide alternative medications for therapeutically equivalent medications to the pharmacy that require prior authorization on the National Council for Prescription Drug Programs response transaction to a denied claim for prior authorization.