

1 A bill to be entitled
2 An act relating to health insurance restrictions on
3 prescription medication protocols; providing a short
4 title; amending s. 409.967, F.S., and creating ss.
5 627.6466 and 641.393, F.S.; requiring a Medicaid
6 managed care plan, an insurer, or a health maintenance
7 organization to allow a prescribing provider to
8 request an override of a restriction on the use of
9 medication imposed through a step-therapy or fail-
10 first protocol; requiring the plan, insurer, or health
11 maintenance organization to grant such override within
12 a specified timeframe under certain circumstances;
13 prohibiting the duration of a step-therapy or fail-
14 first protocol from exceeding the time period
15 specified by the prescribing provider; providing that
16 an override is not required under certain
17 circumstances; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. This act may be cited as the "Florida Patient
22 Protection Act."

23 Section 2. Paragraph (c) of subsection (2) of section
24 409.967, Florida Statutes, is amended to read:

25 409.967 Managed care plan accountability.—

26 (2) The agency shall establish such contract requirements

27 as are necessary for the operation of the statewide managed care
28 program. In addition to any other provisions the agency may deem
29 necessary, the contract must require:

30 (c) Access.—

31 1. The agency shall establish specific standards for the
32 number, type, and regional distribution of providers in managed
33 care plan networks to ensure access to care for both adults and
34 children. Each plan must maintain a regionwide network of
35 providers in sufficient numbers to meet the access standards for
36 specific medical services for all recipients enrolled in the
37 plan. The exclusive use of mail-order pharmacies may not be
38 sufficient to meet network access standards. Consistent with the
39 standards established by the agency, provider networks may
40 include providers located outside the region. A plan may
41 contract with a new hospital facility before the date the
42 hospital becomes operational if the hospital has commenced
43 construction, will be licensed and operational by January 1,
44 2013, and a final order has issued in any civil or
45 administrative challenge. Each plan shall establish and maintain
46 an accurate and complete electronic database of contracted
47 providers, including information about licensure or
48 registration, locations and hours of operation, specialty
49 credentials and other certifications, specific performance
50 indicators, and such other information as the agency deems
51 necessary. The database must be available online to both the
52 agency and the public and have the capability to compare the

53 availability of providers to network adequacy standards and to
54 accept and display feedback from each provider's patients. Each
55 plan shall submit quarterly reports to the agency identifying
56 the number of enrollees assigned to each primary care provider.

57 2. Each managed care plan must publish any prescribed drug
58 formulary or preferred drug list on the plan's website in a
59 manner that is accessible to and searchable by enrollees and
60 providers. The plan must update the list within 24 hours after
61 making a change. Each plan must ensure that the prior
62 authorization process for prescribed drugs is readily accessible
63 to health care providers, including posting appropriate contact
64 information on its website and providing timely responses to
65 providers. For Medicaid recipients diagnosed with hemophilia who
66 have been prescribed anti-hemophilic-factor replacement
67 products, the agency shall provide for those products and
68 hemophilia overlay services through the agency's hemophilia
69 disease management program.

70 3. Managed care plans, and their fiscal agents or
71 intermediaries, must accept prior authorization requests for any
72 service electronically.

73 4. Managed care plans serving children in the care and
74 custody of the Department of Children and Families must maintain
75 complete medical, dental, and behavioral health encounter
76 information and participate in making such information available
77 to the department or the applicable contracted community-based
78 care lead agency for use in providing comprehensive and

79 | coordinated case management. The agency and the department shall
80 | establish an interagency agreement to provide guidance for the
81 | format, confidentiality, recipient, scope, and method of
82 | information to be made available and the deadlines for
83 | submission of the data. The scope of information available to
84 | the department shall be the data that managed care plans are
85 | required to submit to the agency. The agency shall determine the
86 | plan's compliance with standards for access to medical, dental,
87 | and behavioral health services; the use of medications; and
88 | followup on all medically necessary services recommended as a
89 | result of early and periodic screening, diagnosis, and
90 | treatment.

91 | 5. If medication for the treatment of a medical condition
92 | is restricted for use by a managed care plan through a step-
93 | therapy or fail-first protocol, the prescribing provider shall
94 | have access to a clear and convenient process to request an
95 | override of such restriction from the managed care plan. The
96 | managed care plan shall grant an override of the protocol within
97 | 24 hours if:

98 | a. The prescribing provider determines, based on sound
99 | clinical evidence, that the preferred treatment required under
100 | the step-therapy or fail-first protocol has been ineffective in
101 | the treatment of the enrollee's disease or medical condition; or

102 | b. The prescribing provider believes, based on sound
103 | clinical evidence or medical and scientific evidence, that the
104 | preferred treatment required under the step-therapy or fail-

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105 first protocol:

106 (I) Is expected to, or is likely to, be ineffective given
107 the known relevant physical or mental characteristics and
108 medical history of the enrollee and the known characteristics of
109 the drug regimen; or

110 (II) Will cause, or is likely to cause, an adverse
111 reaction or other physical harm to the enrollee.

112 6. If the prescribing provider allows the enrollee to
113 enter the step-therapy or fail-first protocol recommended by the
114 managed care plan, the duration of the step-therapy or fail-
115 first protocol may not exceed a period deemed appropriate by the
116 prescribing provider. If the prescribing provider deems the
117 treatment clinically ineffective, the enrollee is entitled to
118 receive the recommended course of therapy without requiring the
119 prescribing provider to seek approval for an override of the
120 step-therapy or fail-first protocol.

121 Section 3. Section 627.6466, Florida Statutes, is created
122 to read:

123 627.6466 Fail-first protocols.—If medication for the
124 treatment of a medical condition is restricted for use by an
125 insurer through a step-therapy or fail-first protocol, the
126 prescribing provider shall have access to a clear and convenient
127 process to request an override of such restriction from the
128 insurer. The insurer shall grant an override of the protocol
129 within 24 hours if:

130 (1) The prescribing provider determines, based on sound

131 clinical evidence, that the preferred treatment required under
132 the step-therapy or fail-first protocol has been ineffective in
133 the treatment of the insured's disease or medical condition; or

134 (2) The prescribing provider believes, based on sound
135 clinical evidence or medical and scientific evidence, that the
136 preferred treatment required under the step-therapy or fail-
137 first protocol:

138 (a) Is expected to, or is likely to, be ineffective given
139 the known relevant physical or mental characteristics and
140 medical history of the insured and the known characteristics of
141 the drug regimen; or

142 (b) Will cause, or is likely to cause, an adverse reaction
143 or other physical harm to the insured.

144 (3) If the prescribing provider allows the insured to
145 enter the step-therapy or fail-first protocol recommended by the
146 insurer, the duration of the step-therapy or fail-first protocol
147 may not exceed a period deemed appropriate by the prescribing
148 provider. If the prescribing provider deems the treatment
149 clinically ineffective, the insured is entitled to receive the
150 recommended course of therapy without requiring the prescribing
151 provider to seek approval for an override of the step-therapy or
152 fail-first protocol.

153 Section 4. Section 641.393, Florida Statutes, is created
154 to read:

155 641.393 Fail-first protocols.—If medication for the
156 treatment of a medical condition is restricted for use by a

157 health maintenance organization through a step-therapy or fail-
158 first protocol, the prescribing provider shall have access to a
159 clear and convenient process to request an override of such
160 restriction from the organization. The health maintenance
161 organization shall grant an override of the protocol within 24
162 hours if:

163 (1) The prescribing provider determines, based on sound
164 clinical evidence, that the preferred treatment required under
165 the step-therapy or fail-first protocol has been ineffective in
166 the treatment of the subscriber's disease or medical condition;
167 or

168 (2) The prescribing provider believes, based on sound
169 clinical evidence or medical and scientific evidence, that the
170 preferred treatment required under the step-therapy or fail-
171 first protocol:

172 (a) Is expected to, or is likely to, be ineffective given
173 the known relevant physical or mental characteristics and
174 medical history of the subscriber and the known characteristics
175 of the drug regimen; or

176 (b) Will cause, or is likely to cause, an adverse reaction
177 or other physical harm to the subscriber.

178 (3) If the prescribing provider allows the subscriber to
179 enter the step-therapy or fail-first protocol recommended by the
180 health maintenance organization, the duration of the step-
181 therapy or fail-first protocol may not exceed a period deemed
182 appropriate by the prescribing provider. If the prescribing

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183 provider deems the treatment clinically ineffective, the
184 subscriber is entitled to receive the recommended course of
185 therapy without requiring the prescribing provider to seek
186 approval for an override of the step-therapy or fail-first
187 protocol.

188 Section 5. This act shall take effect July 1, 2016.