

1 A bill to be entitled
2 An act relating to step-therapy protocols; amending s.
3 627.42393, F.S.; providing definitions; requiring
4 health insurers to publish on their websites and
5 provide to their insureds specified information;
6 requiring health insurers to grant or deny protocol
7 exemption requests and respond to appeals; providing
8 requirements for granting and denying protocol
9 exemption requests; authorizing health insurers to
10 request specified documentation under certain
11 circumstances; amending s. 641.31, F.S.; providing
12 definitions; requiring health maintenance
13 organizations to publish on their websites and provide
14 to their subscribers specified information; requiring
15 health maintenance organizations to grant or deny
16 protocol exemption requests and respond to appeals;
17 providing requirements for granting and denying
18 protocol exemption requests; authorizing health
19 maintenance organizations to request specified
20 documentation under certain circumstances; providing
21 an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 627.42393, Florida Statutes, is amended

26 | to read:

27 | 627.42393 Step-therapy protocol.—

28 | ~~(1)-(2)~~ As used in this section, the term:

29 | (a) "Health coverage plan" means any of the following
30 | which is currently or was previously providing major medical or
31 | similar comprehensive coverage or benefits to the insured:

32 | 1.(a) A health insurer or health maintenance organization.

33 | 2.(b) A plan established or maintained by an individual
34 | employer as provided by the Employee Retirement Income Security
35 | Act of 1974, Pub. L. No. 93-406.

36 | 3.(e) A multiple-employer welfare arrangement as defined
37 | in s. 624.437.

38 | 4.(d) A governmental entity providing a plan of self-
39 | insurance.

40 | (b) "Protocol exemption" means a determination by a health
41 | insurer to authorize the use of another prescription drug,
42 | medical procedure, or course of treatment prescribed or
43 | recommended by the treating health care provider for the
44 | insured's condition rather than the one specified by the health
45 | insurer's step-therapy protocol.

46 | (c) "Step-therapy protocol" means a written protocol that
47 | specifies the order in which certain prescription drugs, medical
48 | procedures, or courses of treatment must be used to treat an
49 | insured's condition.

50 | ~~(2)-(1)~~ A health insurer issuing a major medical individual

51 or group policy may not require a step-therapy protocol under
 52 the policy for a covered prescription drug requested by an
 53 insured if:

54 (a) The insured has previously been approved to receive
 55 the prescription drug through the completion of a step-therapy
 56 protocol required by a separate health coverage plan; and

57 (b) The insured provides documentation originating from
 58 the health coverage plan that approved the prescription drug as
 59 described in paragraph (a) indicating that the health coverage
 60 plan paid for the drug on the insured's behalf during the 90
 61 days immediately before the request.

62 (3) (a) A health insurer shall publish on its website and
 63 provide to an insured in writing a procedure for the insured and
 64 his or her health care provider to request a protocol exemption
 65 or an appeal of the health insurer's action on a protocol
 66 exemption request. The procedure must include, at a minimum:

67 1. The manner in which an insured or health care provider
 68 may request a protocol exemption, including a form.

69 2. The manner and timeframe in which the health insurer
 70 will authorize or deny a protocol exemption request, which must
 71 occur within a reasonable time.

72 3. The manner and timeframe in which to appeal the health
 73 insurer's action on a request.

74 (b) An authorization of the request must specify the
 75 approved prescription drug, medical procedure, or course of

76 treatment. A denial of the request must include a written
 77 explanation of the reason for the denial, the clinical rationale
 78 that supports the denial, and the procedure for appealing the
 79 health insurer's action.

80 (c) A health insurer may request relevant medical records
 81 in support of a protocol exemption request.

82 Section 2. Subsection (46) of section 641.31, Florida
 83 Statutes, is amended to read:

84 641.31 Health maintenance contracts.—

85 (46) (a) ~~(b)~~ As used in this subsection, the term:

86 1. "Health coverage plan" means any of the following which
 87 previously provided or is currently providing major medical or
 88 similar comprehensive coverage or benefits to the subscriber:

89 a.1. A health insurer or health maintenance organization. ~~†~~

90 b.2. A plan established or maintained by an individual
 91 employer as provided by the Employee Retirement Income Security
 92 Act of 1974, Pub. L. No. 93-406. ~~†~~

93 c.3. A multiple-employer welfare arrangement as defined in
 94 s. 624.437. ~~† or~~

95 d.4. A governmental entity providing a plan of self-
 96 insurance.

97 2. "Protocol exemption" means a determination by a health
 98 maintenance organization to authorize the use of another
 99 prescription drug, medical procedure, or course of treatment
 100 prescribed or recommended by the treating health care provider

101 for the subscriber's condition rather than the one specified by
102 the health maintenance organization's step-therapy protocol.

103 3. "Step-therapy protocol" means a written protocol that
104 specifies the order in which certain prescription drugs, medical
105 procedures, or courses of treatment must be used to treat a
106 subscriber's condition.

107 (b) ~~(a)~~ In addition to the protocol exemptions granted
108 under paragraph (c), a health maintenance organization issuing
109 major medical coverage through an individual or group contract
110 may not require a step-therapy protocol under the contract for a
111 covered prescription drug requested by a subscriber if:

112 1. The subscriber has previously been approved to receive
113 the prescription drug through the completion of a step-therapy
114 protocol required by a separate health coverage plan; and

115 2. The subscriber provides documentation originating from
116 the health coverage plan that approved the prescription drug as
117 described in subparagraph 1. indicating that the health coverage
118 plan paid for the drug on the subscriber's behalf during the 90
119 days immediately before the request.

120 (c)1. A health maintenance organization shall publish on
121 its website and provide to a subscriber in writing a procedure
122 for the subscriber and his or her health care provider to
123 request a protocol exemption or an appeal of the health
124 maintenance organization's action on a protocol exemption
125 request. The procedure must include, at a minimum:

126 a. The manner in which a subscriber or health care
127 provider may request a protocol exemption, including a form.

128 b. The manner and timeframe in which the health
129 maintenance organization will authorize or deny a protocol
130 exemption request, which must occur within a reasonable time.

131 c. The manner and timeframe in which to appeal the health
132 maintenance organization's action on a request.

133 2. An authorization of the request must specify the
134 approved prescription drug, medical procedure, or course of
135 treatment. A denial of the request must include a written
136 explanation of the reason for the denial, the clinical rationale
137 that supports the denial, and the procedure for appealing the
138 health maintenance organization's action.

139 3. A health maintenance organization may request relevant
140 medical records in support of a protocol exemption request.

141 Section 3. This act shall take effect July 1, 2021.