

26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Section 627.42393, Florida Statutes, is amended
 29 to read:

30 627.42393 Step-therapy protocol.—

31 (1)~~(2)~~ As used in this section, the term:

32 (a) "Health coverage plan" means any of the following
 33 which is currently or was previously providing major medical or
 34 similar comprehensive coverage or benefits to the insured:

35 1.~~(a)~~ A health insurer or health maintenance organization.

36 2.~~(b)~~ A plan established or maintained by an individual
 37 employer as provided by the Employee Retirement Income Security
 38 Act of 1974, Pub. L. No. 93-406.

39 3.~~(c)~~ A multiple-employer welfare arrangement as defined
 40 in s. 624.437.

41 4.~~(d)~~ A governmental entity providing a plan of self-
 42 insurance.

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

49 (c) "Step-therapy protocol" means a written protocol that
 50 specifies the order in which certain prescription drugs, medical

51 procedures, or courses of treatment must be used to treat an
52 insured's condition.

53 (2)-(1) In addition to the protocol exemptions granted
54 under subsection (3), a health insurer issuing a major medical
55 individual or group policy may not require a step-therapy
56 protocol under the policy for a covered prescription drug
57 requested by an insured if:

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

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

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

71 1. The manner in which the insured or health care provider
72 may request a protocol exemption, including a form to request
73 the protocol exemption.

74 2. The manner and timeframe in which the health insurer
75 authorizes or denies a protocol exemption request, which must

76 | occur within a reasonable time.

77 | 3. The manner and timeframe in which the insured or health
 78 | care provider may appeal the health insurer's denial of a
 79 | protocol exemption request.

80 | (b) An authorization of a protocol exemption request must
 81 | specify the approved prescription drug, medical procedure, or
 82 | course of treatment. A denial of a protocol exemption request
 83 | must include a written explanation of the reason for the denial,
 84 | the clinical rationale that supports the denial, and the
 85 | procedure for appealing the health insurer's denial.

86 | (c) A health insurer may request relevant medical records
 87 | in support of a protocol exemption request.

88 | (4)-(3) This section does not require a health insurer to
 89 | add a drug to its prescription drug formulary or to cover a
 90 | prescription drug that the insurer does not otherwise cover.

91 | Section 2. Subsection (46) of section 641.31, Florida
 92 | Statutes, is amended to read:

93 | 641.31 Health maintenance contracts.—

94 | (46) (a)-(b) As used in this subsection, the term:

95 | 1. "Health coverage plan" means any of the following which
 96 | previously provided or is currently providing major medical or
 97 | similar comprehensive coverage or benefits to the subscriber:

98 | a.1. A health insurer or health maintenance organization.†

99 | b.2. A plan established or maintained by an individual
 100 | employer as provided by the Employee Retirement Income Security

101 Act of 1974, Pub. L. No. 93-406.~~†~~

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

104 ~~d.4.~~ A governmental entity providing a plan of self-
 105 insurance.

106 2. "Protocol exemption" means a determination by a health
 107 maintenance organization to authorize the use of another
 108 prescription drug, medical procedure, or course of treatment
 109 prescribed or recommended by the treating health care provider
 110 for the subscriber's condition rather than the one specified by
 111 the health maintenance organization's step-therapy protocol.

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

116 (b)(a) In addition to the protocol exemptions granted
 117 under paragraph (c), a health maintenance organization issuing
 118 major medical coverage through an individual or group contract
 119 may not require a step-therapy protocol under the contract for a
 120 covered prescription drug requested by a subscriber if:

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

124 2. The subscriber provides documentation originating from
 125 the health coverage plan that approved the prescription drug as

126 described in subparagraph 1. indicating that the health coverage
127 plan paid for the drug on the subscriber's behalf during the 90
128 days immediately before the request.

129 (c)1. A health maintenance organization shall publish on
130 its website and provide to a subscriber in writing a procedure
131 for the subscriber and his or her health care provider to
132 request a protocol exemption or an appeal of the health
133 maintenance organization's denial of a protocol exemption
134 request. The procedure must include, at a minimum:

135 a. The manner in which the subscriber or health care
136 provider may request a protocol exemption, including a form to
137 request the protocol exemption.

138 b. The manner and timeframe in which the health
139 maintenance organization authorizes or denies a protocol
140 exemption request, which must occur within a reasonable time.

141 c. The manner and timeframe in which the subscriber or
142 health care provider may appeal the health maintenance
143 organization's denial of a protocol exemption request.

144 2. An authorization of a protocol exemption request must
145 specify the approved prescription drug, medical procedure, or
146 course of treatment. A denial of a protocol exemption request
147 must include a written explanation of the reason for the denial,
148 the clinical rationale that supports the denial, and the
149 procedure for appealing the health maintenance organization's
150 denial.

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

153 ~~(d)-(e)~~ This subsection does not require a health
154 maintenance organization to add a drug to its prescription drug
155 formulary or to cover a prescription drug that the health
156 maintenance organization does not otherwise cover.

157 Section 3. This act shall take effect July 1, 2022.