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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/08/2022 11:55 AM

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Senator Farmer moved the following:

Senate Amendment

Delete lines 36 - 108

and insert:

(a) The prescription drug is a non-opioid based analgesic drug product, and the insurer's step-therapy protocol would otherwise require the insured to be prescribed an opioid analgesic drug product or an abuse-deterrent opioid analgesic drug product; or

(b)1.~~(a)~~ The insured has previously been approved to receive the prescription drug through the completion of a step-



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12 therapy protocol required by a separate health coverage plan;
13 and

14 2.~~(b)~~ The insured provides documentation originating from
15 the health coverage plan that approved the prescription drug as
16 described in subparagraph 1. ~~paragraph (a)~~ indicating that the
17 health coverage plan paid for the drug on the insured's behalf
18 during the 90 days immediately before the request.

19 (1)~~(2)~~ As used in this section, the term:

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

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

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

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

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

31 (b) "Protocol exemption" means a determination by a health
32 insurer to authorize the use of another prescription drug,
33 medical procedure, or course of treatment prescribed or
34 recommended by the treating health care provider for the
35 insured's condition rather than the one specified by the health
36 insurer's step-therapy protocol.

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



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

46 1. The manner in which the insured or health care provider
47 may request a protocol exemption, including a form to request
48 the protocol exemption.

49 2. The manner and timeframe in which the health insurer
50 must authorize or deny a protocol exemption request, including
51 the requirement that such response must occur within a
52 reasonable time.

53 3. The manner and timeframe in which the insured or health
54 care provider may appeal the health insurer's denial of a
55 protocol exemption request.

56 (b) An authorization of a protocol exemption request must
57 specify the approved prescription drug, medical procedure, or
58 course of treatment. A denial of a protocol exemption request
59 must include a written explanation of the reason for the denial,
60 the clinical rationale that supports the denial, and the
61 procedure for appealing the health insurer's denial.

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

64 (4) ~~(3)~~ This section does not require a health insurer to
65 add a drug to its prescription drug formulary or to cover a
66 prescription drug that the insurer does not otherwise cover.

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

69 641.31 Health maintenance contracts.—



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70 (46) (b) ~~(46) (a)~~ In addition to the protocol exemptions
71 granted under paragraph (c), a health maintenance organization
72 issuing major medical coverage through an individual or group
73 contract may not require a step-therapy protocol under the
74 contract for a covered prescription drug requested by a
75 subscriber if:

76 1. The prescription drug is a non-opioid based analgesic
77 drug product, and the health maintenance organization's step-
78 therapy protocol would otherwise require the subscriber to be
79 prescribed an opioid analgesic drug product or an abuse-
80 deterrent opioid analgesic drug product; or

81 2.a.1. The subscriber has previously been approved to
82 receive the prescription drug through the completion of a step-
83 therapy protocol required by a separate health coverage plan;
84 and

85 b.2. The subscriber provides documentation originating from
86 the health coverage plan that approved the prescription drug as
87 described in sub-subparagraph a. ~~subparagraph 1.~~ indicating that
88 the health coverage plan paid for the drug on the subscriber's
89 behalf during the 90 days immediately before the request.