

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 699 Session of 2005

INTRODUCED BY CONTI, ERICKSON, THOMPSON, TOMLINSON, EARLL,
SCARNATI, PIPPY, WAUGH, LEMMOND, C. WILLIAMS, LOGAN,
D. WHITE, M. WHITE, GORDNER, REGOLA, BROWNE, RAFFERTY,
WONDERLING, RHOADES, O'PAKE, FERLO, COSTA, WOZNIAC, KASUNIC
AND HUGHES, MAY 23, 2005

REFERRED TO PUBLIC HEALTH AND WELFARE, MAY 23, 2005

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," establishing criteria for
4 prior authorization governing access to medications.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 443.6(b) and (e) of the act of June 13,
8 1967 (P.L.31, No.21), known as the Public Welfare Code, amended
9 June 16, 1994 (P.L.319, No.49), are amended and the section is
10 amended by adding a subsection to read:

11 Section 443.6. Reimbursement for Certain Medical Assistance
12 Items and Services.--* * *

13 (b) Payment for the following medical assistance items and
14 services shall be made only after prior authorization has been
15 secured:

16 (1) Prostheses and orthoses.

17 (2) Purchase of appliances or equipment if the appliance or

1 equipment costs more than one hundred dollars (\$100).

2 (3) Rental of medical appliances or equipment for a period
3 in excess of three months.

4 (4) Oxygen and related equipment in the home unless a
5 physician states that the physical surroundings in the home are
6 suitable for the use of oxygen and that the recipient is
7 adequately prepared and able to use the equipment.

8 (5) Dental services as the department may provide, including
9 but not necessarily limited to, dental prostheses and
10 appliances, extractions related to dental prostheses and
11 appliances, and other extractions as may be provided by
12 department regulations.

13 (6) Orthopedic shoes or other supportive devices for the
14 feet when such shoes or devices are prescribed by a physician
15 for the purpose of correcting or otherwise treating
16 abnormalities of the feet or legs which cause serious
17 detrimental medical effects.

18 (7) [Other] Subject to subsection (g) with regard to
19 pharmaceuticals, other items or services as the department may
20 authorize by publication of notice in the Pennsylvania Bulletin.

21 * * *

22 (e) [The] Subject to subsection (g) with regard to
23 pharmaceuticals, the department shall promulgate regulations to
24 implement this section and shall establish a procedure for prior
25 authorization. Such regulations may establish procedures for
26 issuing prior authorization at whatever administrative level the
27 department through the secretary deems appropriate.
28 Appropriateness shall be determined by the secretary after
29 hearings have been held and public input is received.
30 Procedures adopted in accordance with this section shall provide

1 authorization when appropriate, without undue delay. When no
2 decision is made on a request to the department for covered
3 services within twenty-one days of the date that the request is
4 received by the department, the authorization shall be deemed
5 approved. The department shall keep a record of those cases in
6 which no decision is made within twenty-one days. The
7 requirements of this section shall not apply in a medical
8 emergency situation as defined by the department.

9 * * *

10 (g) Notwithstanding any other provisions of law, the
11 department shall ensure that the operation of any program of
12 prior authorization governing medical assistance program
13 recipients' access to medications prescribed by their physicians
14 meets the following criteria:

15 (1) Where the drug prescribed for a recipient is subject to
16 prior authorization, the pharmacist shall receive payment for
17 dispensing of such drug without seeking authorization so long as
18 the pharmacist confirms:

19 (i) the prescription is a refill, renewal or reauthorization
20 in the form of a new prescription of the same drug for the same
21 recipient;

22 (ii) with respect to a drug generally prescribed for an
23 indication that is treated with an ongoing or continuing drug
24 therapy either with continuous medication or a medication taken
25 as needed, the recipient for whom the drug is prescribed has
26 filled a prescription for the same drug within the preceding
27 ninety days; or

28 (iii) with respect to a drug prescribed for a recurring
29 acute condition, the recipient for whom the drug is prescribed
30 has filled a prescription for the same drug within the previous

1 twelve months.

2 (2) Where the prescriber has indicated on the face of the
3 prescription "dispense as written" or "DAW" in handwriting, or
4 other appropriate form for electronic prescriptions:

5 (i) the pharmacy shall not substitute another drug without
6 the express permission of the prescriber; and

7 (ii) notwithstanding any other provisions of law, the
8 pharmacy shall receive payment for a drug dispensed pursuant to
9 a "dispense as written" order without seeking prior
10 authorization of the department, and without telephone or other
11 confirmation that the physician does not wish to substitute
12 another medication.

13 (3) Notwithstanding any other provision of law, a covered
14 outpatient drug shall not be subject to restriction or prior
15 authorization prior to the first regularly scheduled meeting of
16 the pharmacy and therapeutics committee at which evidence is
17 presented to support any such restriction on use of the drug in
18 treating program beneficiaries.

19 (4) As used in this subsection:

20 "Ongoing or continuing drug therapy" means a prescription for
21 a drug that has been filled for a recipient in the previous
22 thirty to ninety calendar days.

23 "Recipient" means an individual enrolled in the medical
24 assistance fee-for-service program of the department.

25 Section 2. This act shall take effect immediately.