
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1698 Session of
2015

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R. BROWN, PHILLIPS-HILL, FARRY, KORTZ, DAVIS AND SANTARSIERO,
FEBRUARY 9, 2016

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 25, 2016

AN ACT

1 Providing for coverage requirements by an insurance carrier or
2 health insurance plan for abuse-deterrent opioid analgesic
3 drug products.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Abuse-
8 Deterrent Opioid Analgesic Drug Products Coverage Act.

9 Section 2. Findings and declarations.

10 The General Assembly finds and declares as follows:

11 (1) The abuse of opioids is a serious problem that
12 affects the health, social and economic welfare of this
13 Commonwealth.

14 (2) An estimated 2.1 million people in the United States
15 suffered from substance use disorders related to prescription

1 opioid pain relievers in 2012.

2 (3) The number of unintentional overdose deaths from
3 prescription opioid pain relievers has more than quadrupled
4 in the United States since 1999.

5 (4) It is imperative for people suffering from pain to
6 get the relief they need while minimizing the potential for
7 negative consequences.

8 (5) The human suffering caused by drug addiction,
9 including the effect on the loved ones of the individuals
10 suffering from drug addiction, has now reached epidemic
11 proportions in this Commonwealth.

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Abuse-deterrent opioid analgesic drug product." A brand or
17 generic opioid analgesic drug product approved by the United
18 States Food and Drug Administration AS AN ABUSE-DETERRENT OPIOID <--
19 with abuse-deterrence labeling claims indicating its abuse-
20 deterrent properties are expected to deter or reduce its abuse.

21 ~~"Cost sharing." The cost to an individual insured under a <--~~
22 ~~health insurance plan according to any coverage limit,~~
23 ~~copayment, coinsurance, deductible or other out of pocket~~
24 ~~expense requirements imposed by the health insurance plan.~~

25 "Health insurance carrier." An entity that offers or issues
26 a health insurance plan and is subject to any of the following:

27 (1) The act of May 17, 1921 (P.L.682, No.284), known as
28 The Insurance Company Law of 1921, INCLUDING SECTION 630 AND <--
29 ARTICLE XXIV OF THAT ACT.

30 (2) The act of December 29, 1972 (P.L.1701, No.364),

1 known as the Health Maintenance Organization Act.

2 (3) 40 Pa.C.S. Chs. 61 (relating to hospital plan
3 corporations) or 63 (relating to professional health services
4 plan corporations).

5 "Health insurance plan." A policy, contract, certificate or
6 agreement offered or issued by a health insurance carrier to
7 provide for the costs of health care services. The term does not
8 include the following types of policies:

9 (1) Accident only.

10 (2) Limited benefit.

11 (3) Credit.

12 (4) Vision.

13 (5) DENTAL. <--

14 ~~(5)~~ (6) Specified disease. <--

15 ~~(6)~~ (7) Civilian Health and Medical Program of the <--
16 Uniformed Services (CHAMPUS) supplement.

17 ~~(7)~~ (8) Long-term care or disability income. <--

18 ~~(8)~~ (9) Workers' compensation. <--

19 ~~(9)~~ (10) Automobile medical payment. <--

20 "Opioid analgesic drug product." A drug product that
21 contains an opioid agonist and is designated by the United
22 States Food and Drug Administration for the treatment of pain,
23 notwithstanding whether or not the drug product is in an
24 immediate release or extended release formulation or contains
25 other drug substances.

26 Section 4. Coverage requirements for abuse-deterrent opioid
27 analgesic drug products.

28 ~~(a) Requirement.~~ A IF A health insurance carrier or health <--
29 insurance plan ~~shall provide~~ PROVIDES coverage on its formulary, <--
30 drug list or other lists of similar construct for at least one

1 ~~abuse-deterrent opioid analgesic drug product per opioid~~ <--
2 ~~analgesic active ingredient.~~, THEN A HEALTH INSURANCE CARRIER OR <--
3 HEALTH INSURANCE PLAN SHALL PROVIDE COVERAGE FOR ~~AT LEAST THREE~~ <--
4 ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCTS IN A MANNER THAT <--
5 ~~PRESERVES THERAPEUTIC CHOICE FOR PRESCRIBERS AND PATIENTS.~~

6 ~~(b) Cost sharing. The following apply:~~ <--

7 ~~(1) Cost sharing for brand name abuse-deterrent opioid~~
8 ~~analgesic drug products shall not exceed the lowest cost~~
9 ~~sharing level applied to brand name prescription drugs~~
10 ~~covered under the health insurance plan.~~

11 ~~(2) Cost sharing for generic abuse-deterrent opioid~~
12 ~~analgesic drug products shall not exceed the lowest cost~~
13 ~~sharing level applied to generic prescription drugs covered~~
14 ~~under the health insurance plan.~~

15 ~~(3) An increase in cost sharing or other disincentives~~
16 ~~for prescribers or dispensers may not be used to achieve~~
17 ~~compliance with this section.~~

18 Section 5. Utilization management.

19 ~~(a) Prohibition.~~ A health insurance carrier or health <--
20 insurance plan shall not require an insured or enrollee to first <--
21 use a AN OPIOID ANALGESIC drug product that is not an abuse- <--
22 deterrent opioid analgesic drug product before providing
23 coverage for an abuse-deterrent opioid analgesic drug product.

24 ~~(b) Construction.~~ Nothing in this section shall be <--
25 construed to prevent a health insurance carrier or health
26 insurance plan from applying utilization review requirements,
27 including prior authorization, to abuse-deterrent opioid
28 analgesic drug products if the requirements are applied to all
29 opioid analgesic drug products with the same type of drug
30 release, immediate or extended.

1 SECTION 6. PRESCRIBING. <--

2 (A) GUIDELINES.--THE DEPARTMENT OF HEALTH SHALL ADOPT
3 MANDATORY, EVIDENCE-BASED GUIDELINES FOR PRESCRIBING ABUSE-
4 DETERRENT PRESCRIPTION OPIOIDS. THE GUIDELINES SHALL BE
5 PUBLISHED IN THE PENNSYLVANIA BULLETIN.

6 (B) EDUCATIONAL MATERIALS.--THE DEPARTMENT OF HEALTH SHALL
7 DEVELOP EDUCATIONAL MATERIALS TO EXPLAIN THE RISKS ASSOCIATED
8 WITH ALL OPIOIDS NOTWITHSTANDING THEIR ABUSE-DETERRENT LABELING.
9 PRESCRIBERS SHALL DISTRIBUTE THESE MATERIALS WITH EVERY OPIOID
10 PRESCRIPTION REGARDLESS OF WHETHER THE OPIOID BEING PRESCRIBED
11 HAS ABUSE-DETERRENT PROPERTIES.

12 Section 6 7. Applicability. <--

13 This act shall apply as follows:

14 (1) For health insurance plans for which rates or forms
15 are required to be filed with the Insurance Department or the
16 Federal Government, this act shall apply to a policy for
17 which a form or rate is ~~filed~~ FIRST PERMITTED TO BE USED on <--
18 or after the effective date of this section.

19 (2) For health insurance plans for which rates or forms
20 are not required to be filed with the Insurance Department or
21 the Federal Government, this act shall apply to a policy
22 issued or renewed on or after 180 days after the effective
23 date of this section.

24 Section 7 8. Effective date. <--

25 This act shall take effect in 60 days.