

AMENDMENTS TO HOUSE BILL NO. 18

Sponsor: REPRESENTATIVE MACKENZIE

Printer's No. 463

1 Amend Bill, page 1, lines 13 through 16, by striking out all
2 of said lines and inserting

3 Section 1. Section 306(f.1)(6)(ii) of the act of June 2,
4 1915 (P.L.736, No.338), known as the Workers' Compensation Act,
5 is amended, paragraph (3)(vi) is amended by adding a subclause
6 and paragraph (6) is amended by adding a subparagraph to read:

7 Amend Bill, page 2, line 8, by striking out "provision" and
8 inserting

9 subclause

10 Amend Bill, page 2, lines 10 and 11, by striking out "at
11 least thirty (30) days but not more than"

12 Amend Bill, page 2, line 11, by inserting after "days."

13 During the public comment period, the department shall
14 conduct at least one public hearing on the selection of a drug
15 formulary.

16 Amend Bill, page 2, line 12, by inserting after "period"

17 and public hearings

18 Amend Bill, page 2, line 16, by striking out "its selection
19 of a" and inserting

20 the

21 Amend Bill, page 2, line 16, by inserting after "formulary"

22 selected

23 Amend Bill, page 2, line 18, by striking out "thirty (30)"

24 and inserting

25 one hundred eighty (180)

26 Amend Bill, page 2, by inserting between lines 19 and 20

1 (III) In selecting a nationally recognized, evidence-based
2 prescription drug formulary for adoption, the department shall
3 consider the following factors:
4 (a) Whether the formulary focuses on medical treatment
5 specific to workers' compensation.
6 (b) Whether the basis for the formulary is readily apparent
7 and publicly available.
8 (c) Whether the formulary includes measures to aid in
9 management of opioid medications.
10 (d) Whether the formulary appropriately limits both duration
11 and dosage of prescriptions.
12 (e) The cost of implementation of the formulary.
13 (IV) The department shall annually review updates issued by
14 the formulary publisher to the selected formulary and by
15 November 1 each year shall solicit public comments regarding the
16 updates proposed for adoption by publishing notice of the
17 proposed updates and a public comment period in the Pennsylvania
18 Bulletin. The public comment period for updates to the adopted
19 formulary shall be at least twenty (20) days, but not more than
20 than thirty (30) days. Within thirty (30) days after the close
21 of the public comment period, the department shall publish
22 notice of the adopted updates in the Pennsylvania Bulletin. The
23 published updates shall take effect thirty (30) days after the
24 publication required by this subprovision.

25 Amend Bill, page 2, line 20, by striking out "(III)" and
26 inserting

27 (V)

28 Amend Bill, page 2, line 24, by striking out "(IV)" and
29 inserting

30 (VI)

31 Amend Bill, page 2, line 24, by inserting after "The "
32 prescription of drugs that is consistent with or recommended
33 by the prescription drug formulary shall be considered
34 reasonable and necessary for the purposes of paragraph (6).
35 Except in cases of medical necessity under subprovision (VII),
36 the

37 Amend Bill, page 2, by inserting between lines 27 and 28

38 (VII) The prescription of drugs that is not consistent with
39 or recommended by the prescription drug formulary may only be
40 considered reasonable and necessary for the purposes of
41 paragraph (6) if the treating health care provider has submitted
42 documentation of medical necessity, including evidence-based
43 analysis of the reason for the exception, to the insurer or
44 self-insured employer at the time of the initial prescription.

1 The documentation of medical necessity shall be on a form
2 prescribed by the department.

3 (VIII) Within eighteen (18) calendar months following the
4 effective date of the prescription drug formulary selected under
5 this subclause, the Pennsylvania Compensation Ratings Bureau
6 shall calculate the savings achieved through the implementation
7 of the prescription drug formulary. For the calendar year
8 immediately following this calculation, the amount of savings
9 shall be used to provide an immediate reduction in rates, equal
10 to the savings, applicable to employers' workers' compensation
11 policies.

12 Amend Bill, page 3, by inserting between lines 4 and 5

13 (ii) The department shall assign a request for utilization
14 review to a utilization review organization at random. The
15 utilization review organization shall issue a written report of
16 its findings and conclusions within the time frame required by
17 the nationally recognized accreditation standards adopted by the
18 department under subparagraph (v). In no case shall the report
19 of findings and conclusions be issued more than thirty (30) days
20 after the receipt of a request.

21 * * *

22 Amend Bill, page 3, lines 7 and 8, by striking out "as a
23 utilization review entity under section 2151" in line 7 and all
24 of line 8 and inserting

25 or accreditation by a nationally recognized organization
26 with certification or accreditation standards appropriate for
27 resolving utilization issues for workers' compensation programs.
28 The following shall apply:

29 (A) Within thirty (30) days of the effective date of this
30 clause, the department shall publish notice in the Pennsylvania
31 Bulletin of the specific nationally recognized certification or
32 accreditation that will be required in order to be approved as a
33 utilization review organization.

34 (B) Upon publication under subclause (A), an entity without
35 the appropriate certification or accreditation may not engage in
36 utilization review under this act, except that an entity
37 approved as a utilization review organization by the department
38 prior to the effective date of this clause may continue to
39 engage in utilization review for up to eighteen (18) calendar
40 months after the publication of notice under subclause (A). If
41 the department determines that an entity approved as a
42 utilization review organization by the department prior to the
43 effective date of this clause is actively attempting to achieve
44 the selected certification or accreditation, the entity shall
45 not be required to apply for reauthorization during the
46 eighteen-month period. A utilization review organization shall
47 adhere to the review standards of the selected nationally

1 recognized certification or accreditation organization for all
2 utilization review where the date of the injury is at least
3 eighteen (18) calendar months after the publication of notice
4 under subclause (A).

5 (C) The department shall enter an agreement with the
6 selected nationally recognized certification or accreditation
7 organization to provide for the certification or accreditation
8 process for utilization review organizations and employees of
9 utilization review organizations, including the costs of any
10 audits required for the certification or accreditation process.
11 The department shall make reasonable attempts to negotiate a
12 reduction of the cost of the certification or accreditation
13 process. An entity approved as a utilization review organization
14 by the department prior to the effective date of this clause,
15 including a surviving association that results from the merger
16 of two or more utilization review organizations under 15 Pa.C.S.
17 Ch. 3 Subch. C (relating to merger), shall be eligible to
18 participate in the initial certification or accreditation
19 process at no cost to the entity. After January 1, 2020, an
20 entity approved as a utilization review organization shall be
21 eligible to participate in the process to renew its
22 certification or accreditation at no cost to the entity. An
23 entity for which the department has incurred costs under this
24 subclause shall reimburse the department for its costs related
25 to the most recent certification or accreditation for the
26 entity, if the entity does not successfully obtain the initial
27 or renewal certification or accreditation. The actual amount of
28 the cost to the department for the certification or
29 accreditation process under this subclause, not to exceed one
30 million five-hundred thousand dollars (\$1,500,000) annually,
31 shall be transferred to the department from the Workers'
32 Compensation Administration Fund.

33 (D) The department shall conduct outreach to all entities
34 approved as utilization review organizations by the department
35 prior to the effective date of this clause. The outreach shall
36 include providing each entity with notice of the requirements of
37 this clause, guidance on how this clause will be enforced by the
38 department and information on how the entity may participate in
39 the required certification or accreditation process at no cost
40 under subclause (C).

41 Amend Bill, page 4, by inserting between lines 11 and 12

42 Section 3. Within eight months of the effective date of this
43 act, the Department of Labor and Industry shall propose
44 regulations to implement the amendment or addition of section
45 306(f.1)(3)(vi)(J) and (6)(ii) and (v) of the act.

46 Amend Bill, page 4, line 12, by striking out "3" and
47 inserting

