

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2471 Session of
2014

INTRODUCED BY BAKER, BENNINGHOFF, CAUSER, HEFFLEY, MURT,
KNOWLES, V. BROWN, DAVIS, BOBACK, LONGIETTI, McCARTER, KOTIK,
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GIBBONS, HARHART, DIGIROLAMO, ROCK, COHEN, DONATUCCI,
SCHLOSSBERG, KAUFFMAN, PICKETT, MATZIE, CLYMER, PETRI,
GINGRICH, SWANGER, BROOKS, GROVE, BIZZARRO, MILNE, DeLUCA,
ENGLISH AND SAMUELSON, SEPTEMBER 15, 2014

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
SEPTEMBER 24, 2014

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," in casualty insurance, providing
12 for pharmaceutical coverage for oral anticancer medications.

13 The General Assembly finds and declares as follows:

14 (1) Cancer treatment through chemotherapy has changed
15 over time. Traditional anticancer medications are primarily
16 administered intravenously. Intravenous chemotherapy tends to
17 attack both cancerous and healthy cells alike.

18 (2) More recently, there has been an increase in the
19 development of orally administered anticancer medications
20 that target only cancer cells and have fewer side effects

1 than intravenous chemotherapy. Orally administered anticancer
2 medications are also more convenient for patients and their
3 caregivers and often allow patients to reenter the work force
4 with minimal time lost for cancer care.

5 (3) Improvements in cancer treatment are contributing to
6 increased survival rates across all forms of cancer and
7 decreased side effects and allow patients to continue to
8 participate in most life activities.

9 (4) Research has found that more than 25% of all
10 anticancer agents currently in development are planned as
11 oral medications. In early trials many of these new oral
12 medications have shown significant clinical advantages over
13 traditional intravenous and injected forms of cancer
14 medications.

15 (5) Intravenous anticancer medications are typically
16 covered under a health plan's medical benefit, often
17 requiring patients to pay a minimal, fixed copayment or pay
18 no cost for the medication.

19 (6) Orally administered anticancer medications are
20 covered under a health plan's pharmacy benefit. Under the
21 pharmacy benefit, orally administered anticancer medications
22 are placed on the highest (specialty) tier of a health plan's
23 cost-sharing system.

24 (7) Typically, patients who receive orally administered
25 anticancer medications must pay coinsurance rates of 20% to
26 30% and, at times, rates as high as 50% in a specialty tier,
27 resulting in extremely high and unmanageable out-of-pocket
28 costs. These costs create an enormous barrier for patients to
29 access orally administered anticancer medications prescribed
30 for their treatment.

1 (8) Increases in out-of-pocket costs of orally
2 administered anticancer medications are associated with a
3 corresponding decrease in adherence to treatment, further
4 risking patient health and making treatment longer, more
5 expensive and less effective.

6 (9) It is estimated that 10% of cancer patients fail to
7 fill their initial prescriptions for orally administered
8 anticancer medications due to high out-of-pocket costs, and
9 25% of cancer patients delay initiating an alternative
10 treatment. Further, research demonstrates that patients
11 reduce their recommended doses of orally administered
12 anticancer medications to avoid paying for medication
13 refills. These behaviors negatively impact the effectiveness
14 of orally administered anticancer medications.

15 (10) The disparity in out-of-pocket costs negatively
16 impacts patient adherence to their medication regimens and
17 forces physicians to make decisions based on health plan
18 benefit design rather than the most effective treatment for a
19 patient.

20 (11) An increasing number of cancer patients are
21 reporting that they cannot afford the out-of-pocket cost for
22 orally administered anticancer medication, yet need the
23 medication as part of their prescribed treatment.

24 (12) For many cancer patients, no intravenous
25 chemotherapy substitute exists for their prescribed oral
26 anticancer medication.

27 The General Assembly of the Commonwealth of Pennsylvania
28 hereby enacts as follows:

29 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
30 as The Insurance Company Law of 1921, is amended by adding a

1 section to read:

2 Section 631.1. Pharmaceutical Coverage for Oral Anticancer
3 Medications.--(a) Whenever an individual or group health,
4 sickness or accident insurance policy or subscriber contract or
5 certificate issued by any entity subject to THE ACT OF DECEMBER <--
6 29, 1972 (P.L.1701, NO.364), KNOWN AS THE "HEALTH MAINTENANCE
7 ORGANIZATION ACT," 40 Pa.C.S. Ch. 61 (relating to hospital plan
8 corporations) or 63 (relating to professional health services
9 plan corporations) or this act provides pharmaceutical coverage
10 that includes coverage for cancer chemotherapy or anticancer
11 medications which have been approved by the United States Food
12 and Drug Administration for general use in the treatment of
13 cancer, the policy shall not place orally administered
14 anticancer medications on a specialty tier or charge a
15 coinsurance payment for orally administered anticancer
16 medications. The prohibition of coinsurance payments applies to
17 charging a percentage of the cost of the medication or a flat-
18 fee cost that is specific to anticancer medication, but does not
19 include charging the minimal copayment that is usual for covered
20 prescription medications not on a specialty tier.

21 (b) Nothing in this section shall serve to diminish the
22 benefits of any insured or subscriber in effect on the effective
23 date of this section, nor prevent the offering or acceptance of
24 benefits which exceed the minimum benefits required by this
25 section.

26 (c) This section shall apply to those insurance policies,
27 subscriber contracts or certificates issued or entered into or
28 renewed on or after the effective date of this section.

29 (d) As used in this section:

30 "Anticancer medication" means a drug or biological product

1 that is used to kill, slow or prevent the growth of cancerous
2 cells.

3 "Specialty tier" means a formulary category for a
4 prescription drug that meets one or more of the following
5 criteria:

6 (1) A high-cost medication that is used to treat and is
7 prescribed for a person with a complex, chronic or rare medical
8 condition.

9 (2) The drug is not typically available at community retail
10 pharmacies.

11 (3) The drug requires special handling, storage or has
12 distribution or inventory limitations.

13 (4) The drug has a complex dosing regimen or requires
14 special administration.

15 (5) The drug is considered to have limited distribution by
16 the United States Food and Drug Administration.

17 (6) The drug requires complex and extended patient education
18 or counseling, intensive monitoring or clinical oversight.

19 (7) The drug has significant side effects or risk profile.

20 Section 2. This act shall take effect immediately.