

2024 Regular Session

SENATE BILL NO. 148

BY SENATOR MIZELL

HEALTH/ACC INSURANCE. Provides relative to postpartum depression. (8/1/24)

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AN ACT

To amend and reenact R.S. 22:1053(K) and (L) and R.S. 40:1123.2 and to enact R.S. 22:1053(M) and 1059.4 and R.S. 46:460.34(D) and 974.1, relative to postpartum depression; to provide for the application of step therapy and fail first protocols to drugs prescribed for postpartum depression; to provide for health insurance coverage for postpartum depression screenings; to provide for the duties of certain healthcare professionals; to provide for Medicaid coverage of postpartum depression screenings; to provide for definitions; to provide for technical changes; to provide for applicability; to provide for the duties of the Louisiana Department of Health; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1053(K) and (L) are hereby amended and reenacted and R.S. 22:1053(M) and 1059.4 are hereby enacted to read as follows:

§1053. Requirement for coverage of step therapy or fail first protocols

\* \* \*

K.(1) **No health coverage plan shall use step therapy or fail first protocols as the basis to restrict any prescription benefit for a drug approved by the**

1 United States Food and Drug Administration for the treatment of postpartum  
2 depression.

3 (2) The provisions of this Subsection shall not apply if the preferred drug  
4 or drug regimen is considered clinically equivalent for therapy, contains the  
5 identical active ingredient or ingredients, and is proven to have the same  
6 efficacy. For purposes of this Subsection, different salts proven to have the same  
7 efficacy shall not be considered as different active ingredients.

8 (3) The treating healthcare provider shall inform the health coverage  
9 plan that the condition being treated is postpartum depression when requesting  
10 authorization.

11 L.(1) If a prescribed drug is denied by a health coverage plan based upon step  
12 therapy or fail first protocols, the health coverage plan shall provide the prescriber  
13 with a list of the alternative comparable formulary medications in writing and  
14 attached to the letter of denial of prescription drug coverage.

15 (2) It shall be deemed sufficient to meet the requirements of this Subsection  
16 if a health coverage plan includes the information required by this Subsection in the  
17 denial letter sent by the health coverage plan or its agent. For any request made by  
18 providers utilizing electronic health records with capabilities, the notice may be sent  
19 electronically.

20 (3) Simple notification of the availability and location of the formulary shall  
21 not be deemed sufficient to meet the requirements of this Subsection.

22 ~~E.~~ M. As used in this Section, the following definitions shall apply:

23 (1) "Health coverage plan" means:

24 (a) An individual or group plan or program which is established by contract,  
25 certificate, law, plan, policy, subscriber agreement, or by any other method and  
26 which is entered into, issued, or offered for the purpose of arranging for, delivering,  
27 paying for, providing, or reimbursing any of the costs of health or medical care,  
28 including pharmacy services, drugs, or devices.

29 (b) Any hospital, health, or medical expense insurance policy, hospital or

1 medical service contract, employee welfare benefit plan, contract or agreement with  
2 a health maintenance organization or a preferred provider organization, health and  
3 accident insurance policy, or any other insurance contract of this type, including a  
4 group insurance plan and the Office of Group Benefits programs.

5 (c) Any plan that is subject to the provisions of this Section which is  
6 administered by a pharmacy benefit manager.

7 (2) "Stage-four advanced, metastatic cancer" means cancer that has spread  
8 from the lymph nodes or other areas or parts of the body and "associated conditions"  
9 means the symptoms or side effects associated with stage-four advanced, metastatic  
10 cancer or its treatment.

11 \* \* \*

12 **§1059.4. Required coverage for postpartum mental health screenings**

13 **A. Any health coverage plan issued for delivery, delivered, renewed, or**  
14 **otherwise contracted for in this state shall include coverage of screenings for**  
15 **postpartum depression or related mental health disorders as provided for in**  
16 **R.S. 40:1123.3.**

17 **B. For purposes of this Section, "health coverage plan" means any**  
18 **hospital, health, or medical expense insurance policy, hospital or medical**  
19 **service contract, employee welfare benefit plan, contract, or other agreement**  
20 **with a health maintenance organization or a preferred provider organization,**  
21 **health and accident insurance policy, or any other insurance contract of this**  
22 **type in this state, including a group insurance plan, a self-insurance plan, and**  
23 **the Office of Group Benefits programs. "Health coverage plan" shall not**  
24 **include a plan providing coverage for excepted benefits as defined in R.S.**  
25 **22:1061, limited benefit health insurance plans, and short-term policies that**  
26 **have a term of less than twelve months.**

27 Section 2. R.S. 40:1123.2 is hereby amended and reenacted to read as follows:

28 §1123.2. Awareness

29 **A.** In accordance with this Part, all hospitals and birthing centers that provide

1 labor and delivery services shall, prior to discharge following pregnancy, provide  
 2 pregnant women and their family members information about perinatal mood and  
 3 anxiety disorders, including the symptoms, treatment, and available resources. The  
 4 Louisiana Department of Health bureau of family health, in cooperation with the  
 5 office of behavioral health, shall make such information available to hospitals and  
 6 birthing centers and shall include this information on the department's website.

7 **B. Any healthcare provider who provides postnatal care or pediatric**  
 8 **infant care services shall make available the information provided for in**  
 9 **Subsection A of this Section to any woman who presents with signs of a**  
 10 **maternal mental health disorder, including but not limited to any woman**  
 11 **determined to be likely suffering from postpartum depression based on the**  
 12 **screenings for postpartum depression or related mental health disorders**  
 13 **administered pursuant to R.S. 40:1123.3.**

14 Section 3. R.S. 46:460.34(D) and 974.1 are hereby enacted to read as follows:

15 §460.34. Step therapy; fail first protocols; requirements; **prohibition**

16 \* \* \*

17 **D.(1) A managed care organization shall not use step therapy or fail first**  
 18 **protocols as the basis to restrict any prescription benefit for a drug approved**  
 19 **by the United States Food and Drug Administration for the treatment of**  
 20 **postpartum depression.**

21 **(2) The provisions of this Subsection shall not apply if the preferred drug**  
 22 **or drug regimen is considered clinically equivalent for therapy, contains the**  
 23 **identical active ingredient or ingredients, and is proven to have the same**  
 24 **efficacy. For purposes of this Subsection, different salts proven to have the same**  
 25 **efficacy shall not be considered as different active ingredients.**

26 **(3) The treating healthcare provider shall inform the managed care**  
 27 **organization that the condition being treated is postpartum depression when**  
 28 **requesting authorization.**

29 \* \* \*



Proposed law requires any commercial health coverage plan issued for delivery, delivered, renewed, or otherwise contracted for in this state to include coverage of screenings for postpartum depression or related mental health disorders as required by present law.

Proposed law applies to any new policy, contract, program, or health coverage plan issued on or after Jan. 1, 2025, and requires any policy, contract, or health coverage plan in effect prior to Jan. 1, 2025, to convert to conform to the provisions of proposed law on or before the renewal date, but no later than Jan. 1, 2026.

Present law requires all hospitals and birthing centers that provide labor and delivery services to provide pregnant women and their family members information about perinatal mood and anxiety disorders. Present law requires the La. Department of Health to make the information available to hospitals and birthing centers, including on the department's website.

Proposed law retains present law and further requires any healthcare provider who provides postnatal care or pediatric infant care services to make available the information to any woman who presents with signs of a maternal mental health disorder, including but not limited to postpartum depression.

Present law provides certain requirements for implementation of step therapy or fail first protocols used by any managed care organization participating in the Louisiana Medicaid program.

Proposed law retains present law and further prohibits a Medicaid managed care organization from using step therapy or fail first protocols as the basis to restrict any prescription benefit for a drug approved by the FDA for the treatment of postpartum depression. Proposed law does not apply if the preferred drug or drug regimen is considered clinically equivalent for therapy, contains the identical active ingredient or ingredients, and is proven to have the same efficacy.

Proposed law provides that the screenings for postpartum depression or related mental health disorders required in present law shall be a covered service in the Louisiana Medicaid program.

Proposed law requires the La. Department of Health to take all actions necessary to make the coverage required by proposed law available to all persons eligible for such coverage on or before Jan. 1, 2025.

Effective August 1, 2024.

(Amends R.S. 22:1053(K) and (L) and R.S. 40:1123.2; adds R.S. 22:1053(M) and 1059.4 and R.S. 46:460.34(D) and 974.1)