DIGEST

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Anders HB No. 393

Abstract: Provides relative to prescription drug benefits of managed care organizations participating in the La. Medicaid coordinated care network program.

Provisions relative to Medicaid Managed Care Pharmaceutical and Therapeutics Committee and drug formulary:

Proposed law requires, beginning Jan. 1, 2014, that all managed care organizations participating in the La. Medicaid program provide as a pharmacy benefit the minimum drug pharmacopoeia in conjunction with a prior approval process developed by the Medicaid Managed Care Pharmaceutical and Therapeutics Committee established by proposed law. Provides that nothing in proposed law shall prohibit a managed care organization from providing drug benefits which are not listed on the minimum drug pharmacopoeia.

Proposed law creates the Medicaid Managed Care Pharmaceutical and Therapeutics Committee ("committee") within the Department of Health and Hospitals (DHH). Provides that the committee shall be composed of 16 members appointed by the governor and submitted to the Senate for confirmation. Further provides that the committee shall be representative of the state's geographic and demographic composition, including women and minorities.

Proposed law provides that the committee shall be comprised of the following persons:

(1) Two physicians nominated by each managed care organization with expertise in the area of pharmacology.

(2) One practicing physician who is participating in the Medicaid program as a family practitioner recommended from a list of three names submitted by the Louisiana Academy of Family Physicians.

(3) One practicing physician who is participating in the Medicaid program as an internal medicine specialist recommended from a list of three names submitted by the Louisiana State Medical Society.

(4) One practicing physician who is participating in the Medicaid program as a pediatrician recommended from a list of three names submitted by the Louisiana Chapter of the American Academy of Pediatrics.

(5) One practicing physician who is participating in the Medicaid program as an obstetrician and gynecologist recommended from a list of three names submitted by the Louisiana Chapter of the American College of Obstetricians and Gynecologists.

(6) One practicing physician who is participating in the Medicaid program as a psychiatrist recommended from a list of three names submitted by the Louisiana Psychiatric Medical Association.

(7) Two practicing physicians who are participating in the Medicaid program recommended from a list of six names submitted by the Louisiana Medical Association.

(8) Two practicing pharmacists who are participating in the Medicaid pharmacy program recommended from a list of six names submitted by the Louisiana Pharmacy Association. One pharmacist shall be an independent pharmacist and one pharmacist shall be a pharmacist representing a chain pharmacy.

(9) The secretary of DHH or his designee.

(10) The director of the Medicaid program in DHH or his designee.

(11) The president of the Senate or his designee.

(12) The speaker of the House of Representatives or his designee.

(13) A Medicaid recipient who is enrolled with a prepaid entity.

Proposed law provides that other physicians who participate in the Medicaid program in various subspecialties may act as consultants to the committee as needed.

Proposed law provides that members of the committee shall be governed by either the Code of Governmental Ethics or the code of ethics of their respective profession.

Proposed law requires all of the following of the committee:

(1) That it meet only in public.

(2) That it permit public comment prior to voting on any changes in the preferred drug list.

(3) That it make available minutes of each meeting to the public within five days after approval of the minutes.

(4) That it make available to the public within five days of any committee meeting all documents distributed to it which are not subject to state or federal confidentiality laws shall be made available.

Proposed law stipulates that the pharmacopoeia developed by the committee shall comply with all applicable state and federal laws, rules, and regulations. Provides that the committee may recommend additions and deletions to the pharmacopoeia. Further requires that the committee advise the secretary of DHH on policy recommendations related to the prudent administration of the Medicaid managed care drug program.

Proposed law requires the secretary of DHH to ensure that all actions of the committee comply with applicable state and federal laws, rules, and regulations prior to implementation or modification of the pharmacopoeia. Provides that clinical decisions regarding the preferred drug list shall be made transparent through a written report that is publicly available. Further provides that if a decision of the committee is contrary to clinical evidence found in labeling, drug compendia, or peer reviewed literature, such decisions shall be justified in writing.

Proposed law authorizes the committee to establish a drug list to be utilized by all managed care organizations that utilize a prior approval process or any other process or combination of processes that prove to be cost-effective in the medical assistance program. Requires that any prior approval process shall meet, at minimum, the following criteria:

(1) Provide for a response by telephone or other form of telecommunication device within 24 hours of a request for prior authorization.

(2) Provide for the dispensing of a minimum of a 72-hour supply of a covered outpatient prescription drug in an emergency situation as provided by federal rule or regulation.

(3) Comply with all applicable federal laws, rules, and regulations.

(4) Involve medical personnel, including but not limited to pharmacists, pharmacy technicians, nurses, and physicians.

(5) Assure that a qualified, licensed physician is available for consultation during the prior approval process.

Proposed law provides that any drug approved by the U.S. Food and Drug Administration shall be added to the formulary as soon as it becomes commercially available. Provides procedures by which the committee may determine whether the drug will be maintained on the formulary.

Proposed law prohibits DHH from implementing the pharmacopoeia authorized by proposed law before the initial pharmacopoeia is submitted to and approved by the legislative committees on health and welfare. Provides that the legislative committees may only approve or reject the pharmacopoeia and may not add or delete specific drugs.

Provisions relative to step therapy and fail first protocols:

Proposed law requires, beginning Jan. 1, 2014, that all managed care organizations participating in the La. Medicaid program utilize a single page prior authorization form to be issued by DHH.

Requires DHH to promulgate rules and regulations that establish the form, and authorizes DHH to consult with the managed care organizations as necessary in development of the form.

Proposed law requires that each managed care organization which utilizes step therapy or fail first protocols comply with the provisions of proposed law.

Proposed law provides that when medications are restricted for use by a managed care organization by a step therapy or fail first protocol, the prescribing physician shall be provided with and have access to a clear and convenient process to expeditiously request an override of such restriction from the managed care organization. Requires the managed care organization to expeditiously grant an override of such restriction under any of the following circumstances:

(1) The prescribing physician can demonstrate to the managed care organization, based on sound clinical evidence, that the preferred treatment required under step therapy or fail first protocol has been ineffective in the treatment of the Medicaid enrollee's disease or medical condition.

(2) The prescribing physician can demonstrate to the managed care organization, based on sound clinical evidence, that the preferred treatment required under the step therapy or fail first protocol is reasonably expected to be ineffective based on the known relevant physical or mental characteristics and medical history of the Medicaid enrollee and known characteristics of the drug regimen.

(3) The prescribing physician can demonstrate to the managed care organization, based on sound clinical evidence, that the preferred treatment required under the step therapy or fail first protocol will cause or will likely cause an adverse reaction or other physical harm to the Medicaid enrollee.

Proposed law provides that the duration of any step therapy or fail first protocol shall not be longer in duration than the customary period for the medication when such treatment is demonstrated by the prescribing physician to be clinically ineffective. Provides that when the managed care organization can demonstrate, through sound clinical evidence, that the originally prescribed medication is likely to require more than the customary period for such medication to provide any relief or an amelioration to the Medicaid enrollee, the step therapy or fail first protocol may be extended for an additional period of time no longer than the original customary period for the medication.

Effective date:

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 46:460.31-460.34)