HOUSE BILL NO. 399

INTRODUCED BY J. KARLEN, V. RICCI, E. BUTTREY, J. ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PRIOR AUTHORIZATION LAWS; PROHIBITING PRIOR AUTHORIZATION FOR ORAL AND INHALED GENERIC PRESCRIPTION DRUGS; PROHIBITING PRIOR AUTHORIZATION FOR INHALED PRESCRIPTION DRUGS FOR ASTHMA, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, OR CHRONIC LUNG DISEASE; PROHIBITING PRIOR AUTHORIZATION FOR INSULIN; REQUIRING INSURERS TO PROVIDE A LIST OF REASONABLE THERAPEUTIC ALTERNATIVES IF THE INSURER MAKES AN ADVERSE DETERMINATION FOR A PRESCRIPTION DRUG; AND AMENDING SECTION 33-32-221, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-32-221, MCA, is amended to read:

"**33-32-221. Prior authorization requirements.** (1) A health insurance issuer or an entity that it contracts with to perform prior authorization on its behalf may not perform prior authorization on benefits for:

(a) any generic prescription drug that is not included in subsections (1)(d) through (1)(g) and that is not listed within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32, after a covered person has been prescribed the covered drug at the same quantity without interruption for 6 months;

(b) any prescription drug or drugs, generic or brand name, on the grounds of therapeutic duplication for the same drug if the covered person has already been subject to prior authorization on the grounds of therapeutic duplication for the same dosage of the prescription drug or drugs and coverage of the prescription drug or drugs was approved;

(c) any prescription drug, generic or brand name, solely because the dosage of the medication for the covered person has been adjusted by the prescriber of the prescription drug, as long as the dosage is within the dosage approved by the food and drug administration or is consistent with clinical dosing for the medication; ~~or~~

(d) any prescription drug, generic or brand name, that is a long-acting injectable antipsychotic;

(e) any formulary oral or inhaled nonbiologic generic prescription drug that is not listed as a specialty tier drug by medicare Part D, or within any of the schedules of controlled substances found at 21 CFR 1308.11 through 21 CFR 1308.15 or the schedules of controlled substances found in Title 50, chapter 32;

(f) any formulary nonspecialty inhaled prescription drug, generic or brand name, for the treatment of asthma, chronic obstructive pulmonary disease, or chronic lung disease; or

(g) formulary generic or brand name insulin for patients diagnosed with diabetes.

(2) Any adverse determination for a prescription drug made during prior authorization by a health insurance issuer or an entity that it contracts with to perform prior authorization on its behalf must be made by a physician whose specialty focuses on the diagnosis and treatment of the condition for which the prescription drug was prescribed to treat, provided that prior authorization that does not result in an adverse determination does not require the involvement of a physician on the part of a health insurance issuer or an entity that it contracts with to perform prior authorization on its behalf.

(3) If the health insurance issuer or an entity that it contracts with to perform prior authorization on its behalf makes an adverse determination for a prescription drug during prior authorization, it shall provide a written adverse determination notice that includes a list of reasonable therapeutic alternatives that are covered by the insurer's formulary."

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