

§ 1342.71. Outpatient prescription drug coverage

(a) The Legislature hereby finds and declares all of the following:

(1) The federal Patient Protection and Affordable Care Act, its implementing regulations and guidance, and related state law prohibit discrimination based on a person's expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions, including benefit designs that have the effect of discouraging the enrollment of individuals with significant health needs.

(2) The Legislature intends to build on the existing state and federal law to ensure that health coverage benefit designs do not have an unreasonable discriminatory impact on chronically ill individuals, and to ensure affordability of outpatient prescription drugs.

(3) Assignment of all or most prescription medications that treat a specific medical condition to the highest cost tiers of a formulary may effectively discourage enrollment by chronically ill individuals, and may result in lower adherence to a prescription drug treatment regimen.

(b) A nongrandfathered health care service plan contract that is offered, amended, or renewed on or after January 1, 2017, shall comply with this section. The cost-sharing limits established by this section apply only to outpatient prescription drugs covered by the contract that constitute essential health benefits, as defined in Section 1367.005.

(c) A health care service plan contract that provides coverage for outpatient prescription drugs shall cover medically necessary prescription drugs, including nonformulary drugs determined to be medically necessary consistent with this chapter.

(d)(1) Consistent with federal law and guidance, the formulary or formularies for outpatient prescription drugs maintained by the health care service plan shall not discourage the enrollment of individuals with health conditions and shall not reduce the generosity of the benefit for enrollees with a particular condition in a manner that is not based on a clinical indication or reasonable medical management practices. Section 1342.7 and any regulations adopted pursuant to that section shall be interpreted in a manner that is consistent with this section.

(2) For combination antiretroviral drug treatments that are medically necessary for the treatment of AIDS/HIV, a health care service plan contract

shall cover a single-tablet drug regimen that is as effective as a multitablet regimen unless, consistent with clinical guidelines and peer-reviewed scientific and medical literature, the multitablet regimen is clinically equally or more effective and more likely to result in adherence to a drug regimen.

(e) A health care service plan contract shall ensure that the placement of prescription drugs on formulary tiers is based on clinically indicated, reasonable medical management practices.

(f)(1) This section shall not be construed to require a health care service plan to impose cost sharing.

(2) This section shall not be construed to require cost sharing for prescription drugs that state or federal law otherwise requires to be provided without cost sharing.

(3) A plan's prescription drug benefit shall provide that if the pharmacy's retail price for a prescription drug is less than the applicable copayment or coinsurance amount, the enrollee shall not be required to pay more than the retail price. The payment rendered shall constitute the applicable cost sharing and shall apply to the deductible, if any, and also to the maximum out-of-pocket limit in the same manner as if the enrollee had purchased the prescription medication by paying the cost-sharing amount.

(g) In the provision of outpatient prescription drug coverage, a health care service plan may utilize formulary, prior authorization, step therapy, or other reasonable medical management practices consistent with this chapter.

(h) This section does not apply to a health care service plan contract with the State Department of Health Care Services.

HISTORY:

Added Stats 2015 ch 619 § 1 (AB 339), effective January 1, 2016, repealed January 1, 2020. Amended Stats 2016 ch 86 § 175 (SB 1171),

effective January 1, 2017, repealed January 1, 2020; Stats 2018 ch 787 § 1 (SB 1021), effective January 1, 2019.