



Ohio Legislative Service Commission

Bill Analysis

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H.B. 250

131st General Assembly
(As Introduced)

Reps. Sprague and Driehaus, Antonio, Bishoff, Green, T. Johnson, Lepore-Hagan, Reineke, Rezabek, K. Smith

BILL SUMMARY

- Establishes prior authorization requirements for certain opioid drugs prescribed to Medicaid recipients.
- Requires the Department of Medicaid (Department) to adopt procedures that Medicaid providers must use to obtain prior authorization for the drugs addressed in the bill.
- Enumerates certain requirements that must be a part of the prior authorization procedures for each category of drug addressed in the bill.
- Permits the Department to contract with another person to perform prior authorization determinations on the Department's behalf.
- Requires the Department to disapprove a prior authorization request for a prescribed drug covered by the bill if the Department is aware of certain facts.
- Requires each contract between the Department and a managed care organization (MCO) to require the MCO to implement and administer a pharmacy utilization management program for Medicaid recipients who have high risk medication regimens.
- Requires each contract between the Department and an MCO to require the MCO to comply with the bill's prior authorization requirements
- Specifies that certain provisions of continuing law relating to MCO coverage of prescription drugs do not affect an MCO's obligation to comply with the bill's prior authorization requirements.

CONTENT AND OPERATION

Prior authorization requirements for certain opioids

The bill establishes prior authorization requirements for certain opioid drugs prescribed to Medicaid recipients. Specifically, the bill prohibits the Medicaid program from covering certain prescribed drugs that are controlled substances containing an opioid unless the Medicaid provider who prescribes the drug first obtains prior authorization in accordance with procedures adopted by the Medicaid program (see "**Prior authorization procedures**" below).¹ "Controlled substance" means a drug, compound, mixture, preparation, or substance included in Schedule I, II, III, IV, or V, as established under Ohio's Controlled Substances Law.²

Covered prescription drugs

The bill's prior authorization requirements apply to the following drugs that are controlled substances containing an opioid:

Drugs not for treatment of chronic pain

- A prescribed drug (1) that is not for treatment of chronic pain, a terminal condition, or a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition and (2) the amount to be dispensed exceeds the amount necessary for the recipient's use in a single ten-day period.³

Drugs prescribed for patients with chronic pain

- A prescribed drug that is for a Medicaid recipient who has been diagnosed with chronic pain and both of the following are true:
 - The dose or doses to be taken by the recipient exceed a morphine equivalent dose of 80 milligrams a day.
 - The recipient has received one or more other prescriptions for a controlled substance containing an opioid in the past three consecutive months and the sum of the doses to be taken by the

¹ R.C. 5164.7511(A).

² R.C. 3719.01(C), not in the bill.

³ R.C. 5164.7511(A)(1).



recipient under those prescriptions exceeds a morphine equivalent dose of 80 milligrams a day.⁴

Drugs prescribed in conjunction with emergency room treatment

- A prescribed drug that is for a Medicaid recipient in conjunction with the recipient's treatment in an emergency department and all of the following are true:
 - The amount to be dispensed under the prescription exceeds the amount necessary for the recipient's use in a single 72-hour period.
 - The drug is not intended to treat pain associated with cancer, a terminal condition, or a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.
 - The drug is not (1) an antidepressant or antipsychotic, (2) administered or dispensed in a standard tablet or capsule form (or in the case of an antipsychotic, is administered in a long-action injectable form), and (3) is prescribed by a physician certified in a managed care agreement to provide care as a psychiatrist, or by a psychiatrist practicing at a certified community mental health services provider.⁵

Prior authorization procedures

The bill requires the Department of Medicaid (Department) to adopt one or more procedures that Medicaid providers must use to obtain prior authorization for the drugs covered by the bill. One of the procedures must require the Department, before approving or disapproving a prior authorization request, to consider whether the provider reviewed any information related to the recipient in OARRS (the Ohio Automated Rx Reporting System – a database to monitor misuse and diversion of controlled substances) in accordance with State Board of Pharmacy standards and procedures regulating the provider's profession.⁶

The bill also establishes requirements pertaining to these prior authorization procedures that apply to each category of prescription drug covered by the bill.

⁴ R.C. 5164.7511(A)(2).

⁵ R.C. 5164.7511(A)(3) and 5167.12(B).

⁶ R.C. 5164.7511(C).

Drugs not for treatment of chronic pain

All of the following apply to the prior authorization procedures pertaining to the first category of drug: drugs not for treatment of chronic pain, a terminal condition, or a progressive disease:

- The Department must disapprove the prior authorization request if the drug is a long-acting or extended release form.
- The Department must approve or disapprove the prior authorization request no later than two business days after it is made and notify the provider of its determination in writing. If the request is disapproved, the Department must indicate, in detail, the reasons for disapproval.
- The Department must notify the provider that the provider should examine the recipient within four days before or after the drug is prescribed.⁷

Drugs prescribed for patients with chronic pain

All of the following apply to the prior authorization procedures for the second category of covered drugs: a drug prescribed for a Medicaid recipient who has been diagnosed with chronic pain and has received other prescriptions for a controlled substance containing an opioid in the past three months:

- Any prior authorization procedures are in addition to the continuing law requirements concerning physician treatment of chronic pain.
- The Department must strongly consider disapproving a prior authorization request if either of the following is true:
 - The drug is to be administered intravenously or by subcutaneous injection, particularly if the drug is meperidine.
 - The Medicaid recipient has received a prescription for a sedative in the past 12 months, unless the recipient has taken other drugs or tried other therapies for the underlying condition and those have failed.
- The Department must approve or disapprove the prior authorization request as soon as practicable and notify the provider of its determination

⁷ R.C. 5164.7511(E).

in writing. If the request is disapproved, the Department must indicate, in detail, the reasons for the disapproval.⁸

Drugs prescribed in conjunction with emergency room treatment

All of the following apply to the prior authorization procedures pertaining to the third category of covered drug: a drug for a Medicaid recipient in conjunction with an emergency department:

- The Department must disapprove the prior authorization request if the patient has told the Medicaid provider that the patient is seeking the drug to replace a lost, destroyed, or stolen prescription or prescribed drug.
- When determining whether to approve or disapprove the prior authorization request, the Department must consider whether the recipient has been prescribed controlled substances for chronic pain, whether the patient has been previously treated in the emergency department for the same condition, and whether the patient has received a prescription for a controlled substance from another provider within the last 30 days.
- The Department must approve or disapprove the prior authorization request as soon as practicable after it is made and notify the provider of its determination in writing. If the request is disapproved, the Department must indicate, in detail, the reasons for disapproval.⁹

Authority to contract

The bill authorizes the Department to contract with a person to perform prior authorization determinations on the Department's behalf and specifies that any reference in the bill to the performance of prior authorization by the Department also applies to a person with which the Department has contracted.¹⁰

Disapprovals

Under the bill, the Department is required to disapprove a prior authorization request for a prescribed drug addressed in the bill if the Department is aware that any of the following is true:

⁸ R.C. 5164.7511(F).

⁹ R.C. 5164.7511(G).

¹⁰ R.C. 5164.7511(B).



- The recipient has previously altered or forged a prescription or has engaged in other fraudulent activity for the purpose of obtaining controlled substances containing opioids.
- The recipient has misused prescription drugs in the past or has had an accidental overdose.
- The recipient has physically abused or verbally threatened the Medicaid provider or the provider's or other medical staff.
- The recipient has had a urine or blood screening test that indicates that the recipient has used illicit substances or misused prescription drugs.¹¹

Medicaid managed care organizations

Current law permits the Department to enter into contracts with managed care organizations (MCOs), including health insuring corporations, whereby the MCO provides some or all health care services to certain Medicaid recipients.¹² The bill sets additional requirements on Medicaid managed care arrangements relating to prescription drugs that contain opioids.

Pharmacy utilization management program required

The bill requires each contract between the Department and an MCO to require the MCO to implement and administer a pharmacy utilization management program for Medicaid recipients who have high risk medication regimens, meaning the recipient has been prescribed at least one controlled substance containing an opioid and at least one benzodiazepine within a single 12-month period.

The bill specifies that in administering the pharmacy utilization management program, the MCO must employ or contract with appropriate professionals, including pharmacists, to review high risk medication regimens for clinical appropriateness. Any concerns about the clinical appropriateness of a recipient's medication regimen (which may include concerns about the volume of certain drugs prescribed or the morphine equivalent dose of controlled substances containing opioids prescribed) must be discussed with the recipient's prescribers and, when appropriate, MCO staff must

¹¹ R.C. 5164.7511(D).

¹² R.C. 5167.10, not in the bill.

suggest to the prescribers alternative medication regimens or therapies for the recipient.¹³

The bill further specifies that the pharmacy utilization management program can include or be separate from a coordinated services program (a program the MCO is required to implement under continuing law for Medicaid recipients enrolled in the MCO who are found to have obtained prescribed drugs under the Medicaid program at a frequency or in an amount not medically necessary).¹⁴

Compliance with prior authorization requirements

The bill also requires each contract between the Department and an MCO to require the MCO to comply with the bill's prior authorization requirements.¹⁵

Prescription drug coverage

Current law prohibits a health insuring corporation that is an MCO from imposing a prior authorization requirement on certain drugs that are antidepressants or antipsychotics and are prescribed to Medicaid recipients enrolled in the health insuring corporation by (1) a physician credentialed by the health insuring corporation to provide care as a psychiatrist or (2) a psychiatrist practicing at a certified community mental health services provider. The bill specifies that this prohibition does not affect a health insuring corporation's obligation to comply with the prior authorization requirements pertaining to drugs covered by the bill.¹⁶

Additionally, the bill requires the Department to authorize, rather than permit as under current law, a health insuring corporation to develop and implement a pharmacy utilization management program under which prior authorization through the program is a condition of obtaining a controlled substance pursuant to a prescription. The bill further specifies that the authorization does not affect the health insuring corporation's obligation to comply with the bill's prior authorization requirements.¹⁷

Definitions

As used in the bill:

¹³ R.C. 5167.121(B).

¹⁴ R.C. 5167.13.

¹⁵ R.C. 5167.15.

¹⁶ R.C. 5167.12(B).

¹⁷ R.C. 5167.12(C).



- "Business day" means any day of the week that is not Saturday, Sunday, or a legal holiday.
- "Chronic pain" means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and has continued, either continuously or episodically, for longer than three continuous months. "Chronic pain" does not include pain associated with cancer, a terminal condition, or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.
- "Morphine equivalent dose" means the conversion of a dose of a controlled substance containing an opioid to the substance's equivalent dose of morphine using conversion tables developed by the State Board of Pharmacy.¹⁸

HISTORY

ACTION	DATE
Introduced	06-08-15

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¹⁸ R.C. 5164.01 and 5167.121(A).

