



Ohio Legislative Service Commission

Bill Analysis

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H.B. 248

131st General Assembly
(As Introduced)

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

BILL SUMMARY

- Requires that certain health insurers and the Medicaid program provide coverage for abuse-deterrent opioid analgesic drugs.

CONTENT AND OPERATION

Coverage for abuse-deterrent opioid analgesics

The bill requires that certain health insurers and the Medicaid program, including Medicaid managed care organizations, provide coverage for all abuse-deterrent opioid analgesic drugs.¹ The bill defines "opioid analgesic drug" as "a prescribed drug product that contains an opioid agonist and that is indicated by the U.S. Food and Drug Administration for the treatment of pain." It also defines "abuse-deterrent opioid analgesic drug" as "a brand name or generic opioid analgesic drug product that is approved by the U.S. Food and Drug Administration and that has labeling claims that indicate that the drug product is expected to result in a meaningful reduction in abuse."

Implementation of coverage

The bill applies to all of the following types of health insurers:

- (1) Health insuring corporations;
- (2) Sickness and accident insurers;

¹ R.C. 1739.05, 1751.691, 3923.851, 5164.091, and 5167.12.

(3) Multiple employer welfare arrangements;

(4) Public employee benefit plans;

(5) The Medicaid program, including the Medicaid managed care organizations under contract with the Ohio Department of Medicaid to provide or arrange for the provision of health care services to Medicaid recipients.

In the case of these insurers, the bill governs policies, contracts, agreements, or plans issued, delivered, renewed, established, or modified in Ohio on or after January 1, 2017.²

The bill does not apply to health insurance that is part of employee benefits offered by private employers that self-insure their benefit programs. These programs are generally precluded from state regulation by the federal Employee Retirement Income Security Act (ERISA) (see "**ERISA**," below).

Conditions on private insurers and public employee benefit plans

Under the bill, an insurance policy, contract, agreement, or plan must provide coverage for all abuse-deterrent opioid analgesic drugs if the policy, contract, agreement, or plan provides prescription drug coverage.

Reimbursement

The bill prohibits an insurance policy, contract, agreement, or plan, and the Medicaid program from excluding or denying reimbursement for an abuse-deterrent opioid analgesic drug solely due to the cost of the drug, regardless of a provision in continuing law that authorizes a pharmacist to select a generically equivalent drug when filling a prescription for a drug prescribed by its brand name.³

Prior authorization or utilization review

The bill provides that any prior authorization requirements or utilization review measures for opioid analgesic drugs, and any coverage denials made pursuant to those requirements or measures, cannot require treatment failure of nonabuse-deterrent opioid analgesic drugs in order to access abuse-deterrent formulations.

² Section 3.

³ R.C. 4729.38, not in the bill.



Cost-sharing

The bill specifies that any cost-sharing requirements cannot exceed the lowest cost-sharing requirements applied to opioid analgesic drugs without abuse-deterrent properties. A policy, contract, agreement, plan, or the Medicaid program cannot achieve compliance with this provision by increasing prescription cost-sharing requirements.

Prescriber measures

Under the bill, if a health insuring corporation, sickness and accident insurer, multiple employer welfare arrangement, public employee benefit plan, or the Medicaid program, measures a prescriber's efficiency, quality of care, or clinical performance through patient satisfaction surveys or other means, the prescriber cannot be penalized, financially or otherwise, for either of the following actions:

- (1) Prescribing an abuse-deterrent opioid analgesic drug;
- (2) Deciding not to prescribe an opioid analgesic drug.

Review of mandated benefits legislation

The bill exempts its requirements regarding health insurer coverage of abuse-deterrent opioid analgesic drugs from an existing law that could prevent the requirements from being applied until a review by the Superintendent of Insurance has been conducted with respect to mandated health benefits.⁴ Under current law, legislation mandating health benefits cannot be applied to any health benefits arrangement after the legislation is enacted unless the Superintendent holds a public hearing and determines that it can be applied fully and equally in all respects to (1) employee benefits plans that are subject to ERISA and (2) employee benefit plans established or modified by the state or its political subdivisions.⁵ Under the bill, the coverage of abuse-deterrent opioid analgesics is applicable and the Superintendent's hearing and determinations are not required even if the bill's provisions are considered mandated benefits.

ERISA

ERISA is a comprehensive federal statute governing the administration of employee benefit plans. ERISA generally precludes state regulation of benefits offered by private employers that self-insure their benefit programs. Larger employers frequently choose to establish their own health insurance plans for their employees in

⁴ R.C. 1739.05, 1751.691, and 3923.851.

⁵ R.C. 3901.71.



lieu of purchasing coverage from a sickness and accident insurer or health insuring corporation.

HISTORY

ACTION	DATE
Introduced	06-08-15

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