

# ACT No. 312

Regular Session, 2013

HOUSE BILL NO. 393

BY REPRESENTATIVES ANDERS AND STUART BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Part XI of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:460.31 through 460.35, relative to the medical assistance program; to provide relative to managed care organizations which provide health care services to medical assistance program enrollees; to provide relative to prescription drugs; to provide for prepaid coordinated care network pharmaceutical and therapeutics committees; to provide for a standard form for the prior authorization of prescription drugs; to provide for certain procedures relative to step therapy and fail first protocols; to provide for promulgation of rules; to provide for exemptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XI of Chapter 3 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:460.31 through 460.35, is hereby enacted to read as follows:

PART XI. MEDICAID MANAGED CARE PRESCRIPTION DRUG BENEFITS

§460.31. Definitions

As used in this Part, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(1) "Department" means the Department of Health and Hospitals.

(2) "Managed care organization" shall have the same meaning as provided for that term in 42 CFR 438.2 and shall also mean any entity providing primary care case management services to Medicaid recipients pursuant to a contract with the department.

1           (3) "Medicaid" and "medical assistance program" mean the medical  
2           assistance program provided for in Title XIX of the Social Security Act.

3           (4) "Prepaid coordinated care network" means a private entity that contracts  
4           with the department to provide Medicaid benefits and services to enrollees of the  
5           Medicaid coordinated care program known as "Bayou Health" in exchange for a  
6           monthly prepaid capitated amount per member.

7           (5) "Primary care case management" means a system in which an entity  
8           contracts with the state to furnish case management services, which include but are  
9           not limited to the location, coordination, and monitoring of primary health care  
10           service to Medicaid beneficiaries.

11           (6) "Secretary" means the secretary of the Department of Health and  
12           Hospitals.

13           §460.32. Prepaid coordinated care networks; pharmaceutical and therapeutics  
14           committees

15           On or before January 1, 2014, each prepaid coordinated care network shall  
16           form a body to be designated as a "Pharmaceutical and Therapeutics Committee"  
17           which shall develop a drug formulary and preferred drug list for the prepaid  
18           coordinated care network. Each Pharmaceutical and Therapeutics Committee  
19           created pursuant to the provisions of this Section shall meet no less frequently than  
20           semiannually in Baton Rouge, Louisiana. Such meetings shall be open to the public  
21           and shall allow for public comment prior to voting by the committee on any change  
22           in the preferred drug list or formulary.

23           §460.33. Prior authorization form; requirements

24           A. All managed care organizations shall accept, in addition to any currently  
25           accepted facsimile and electronic prior authorization forms, a standard prior  
26           authorization form, not to exceed two pages, excluding guidelines or instructions,  
27           that has been duly promulgated by the department in accordance with the  
28           Administrative Procedure Act. A health care provider may submit the prior  
29           authorization form electronically if the managed care organization allows for  
30           submission of the form in this manner.

1           B. The department shall promulgate rules and regulations prior to January  
2           1, 2014, that establish the form which shall be utilized by all managed care  
3           organizations. The department may consult with the managed care organizations as  
4           necessary in development of the prior authorization form.

5           §460.34. Step therapy; fail first protocols; requirements

6           A. Each managed care organization that utilizes step therapy or fail first  
7           protocols shall comply with the provisions of this Section.

8           B. When medications for the treatment of any medical condition are  
9           restricted for use by a managed care organization by a step therapy or fail first  
10           protocol, the prescribing physician shall be provided with and have access to a clear  
11           and convenient process to expeditiously request an override of such restriction from  
12           the managed care organization. The managed care organization shall expeditiously  
13           grant an override of such restriction under any of the following circumstances:

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

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

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

27           C. The duration of any step therapy or fail first protocol shall not be longer  
28           than the duration of action for the medication as described in the pharmacokinetics  
29           section of the package insert approved by the United States Food and Drug

1           Administration when such treatment is demonstrated by the prescribing physician  
2           to be clinically ineffective.

3           §460.35. Exemptions

4                   The provisions of this Part shall not apply to any entity that contracts with the  
5           department to provide fiscal intermediary services in processing claims of health care  
6           providers.

7           Section 2. This Act shall become effective on January 1, 2014.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_