

Regular Session, 2010

SENATE BILL NO. 421

BY SENATOR MURRAY

HEALTH/ACC INSURANCE. Provides relative to therapeutic switching of medications under certain circumstances. (8/15/10)

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AN ACT

To enact R.S. 22:1052, relative to therapeutic switching of medications under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1052 is hereby enacted to read as follows:

§1052. Requirement for coverage of therapeutic switching of medications

A. Notwithstanding the provisions of R.S. 22:1047 to the contrary, any health care coverage plan specified in Subsection D of this Section which is issued for delivery, delivered, renewed, or otherwise contracted for in this state on or after January 1, 2011, shall provide coverage for the therapeutic switching of medications as provided in this Section.

B. When medications for the treatment of any medical condition are restricted for use by an insurer by a step therapy or fail first protocol, the prescribing physician shall have access to a clear and convenient process to expeditiously request an override of such restriction from the insurer. An override of such restriction shall be expeditiously granted by the insurer under any of the following circumstances:

1 **(1) The prescribing physician can demonstrate that the preferred**
2 **treatment required under step therapy or fail first protocol has been ineffective**
3 **in the treatment of the insured's disease or medical condition.**

4 **(2) The prescribing physician can demonstrate that the preferred**
5 **treatment required under the step therapy or fail first protocol is expected or**
6 **likely to be ineffective based on the known relevant physical or mental**
7 **characteristics of the insured and known characteristics of the drug regimen.**

8 **(3) The prescribing physician can demonstrate that the preferred**
9 **treatment required under the step therapy or fail first protocol will cause or will**
10 **likely cause an adverse reaction or other physical harm to the insured.**

11 **C. The duration of any step therapy or fail first protocol shall not be**
12 **longer than the customary period for the medication when such treatment is**
13 **deemed clinically ineffective by the prescribing physician. When the**
14 **prescribing physician can demonstrate, through sound clinical evidence, that**
15 **the originally prescribed medication is likely to require more than the**
16 **customary period for such medication to provide any relief or an amelioration**
17 **to the insured, the step therapy or fail first protocol may be extended for a**
18 **period of time to be determined by the physician.**

19 **D. As used in this Section, a "health coverage plan" shall mean any**
20 **hospital, health, or medical expense insurance policy, hospital or medical**
21 **service contract, employee welfare benefit plan, contract or agreement with a**
22 **health maintenance organization or a preferred provider organization, health**
23 **and accident insurance policy, or any other insurance contract of this type,**
24 **including a group insurance plan and the Office of Group Benefits programs.**

The original instrument was prepared by Cheryl Horne. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

Murray (SB 421)

Proposed law requires any health care coverage plan which is issued for delivery, delivered, renewed, or otherwise contracted for in this state on or after January 1, 2011, shall provide coverage for the therapeutic switching of medications.

Proposed law provides that when medications for the treatment of any medical condition are restricted for use by an insurer by a step therapy or fail first protocol, the prescribing physician shall have access to a clear and convenient process to expeditiously request an override of such restriction from the insurer. Provides for an override of the restriction under any of the following circumstances:

- (a) The prescribing physician can demonstrate that the preferred treatment required under step therapy or fail first protocol has been ineffective in the treatment of the insured's disease or medical condition; or
- (b) The prescribing physician can demonstrate that the preferred treatment required under the step therapy or fail first protocol is expected or likely to be ineffective based on the known physical or mental characteristics of the insured and known characteristics of the drug regimen; or
- (c) The prescribing physician can demonstrate that the preferred treatment required under the step therapy or fail first protocol will cause or likely cause an adverse reaction or other physical harm to the insured.

Proposed law requires the duration of any step therapy or fail first protocol not be longer than the customary period for the medication when such treatment is deemed clinically ineffective by the prescribing physician. Provides for an extension of the step therapy or fail first protocol for a period of time to be determined by the physician when the prescribing physician can demonstrate that the prescribed medication requires more than the customary period for the medication to provide any relief.

Effective August 15, 2010.

(Adds R.S. 22:1052)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill.

1. Removes the demonstration of sound clinical evidence and medical scientific evidence by a prescribing physician.
2. Makes technical changes.
3. Changes the duration of any step therapy or fail first protocol from a period of fourteen days to the customary period for the medication when such treatment is deemed clinically ineffective.
4. Changes the two week period for the medication to provide relief to the

customary period for the medication to provide relief.

5. Changes the extension of step therapy or fail first protocol from seven additional days to a period of time to be determined by the physician.

Senate Floor Amendments to reengrossed bill.

1. Technical amendments made by Legislative Bureau.