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HB 459

2022 Legislature

1
2 An act relating to step-therapy protocols; amending s.
3 627.42393, F.S.; revising the circumstances under
4 which step-therapy protocols may not be required;
5 defining terms; requiring health insurers to publish
6 on their websites and provide to their insureds
7 specified information; providing requirements for
8 procedures for requests and appeals of denials of
9 protocol exemptions; providing requirements for
10 authorizations and denials of protocol exemption
11 requests; authorizing health insurers to request
12 specified documentation under certain circumstances;
13 amending s. 641.31, F.S.; revising the circumstances
14 under which step-therapy protocols may not be
15 required; defining terms; requiring health maintenance
16 organizations to publish on their websites and provide
17 to their subscribers specified information; providing
18 requirements for procedures for requests and appeals
19 of denials of protocol exemptions; providing
20 requirements for authorizations and denials of
21 protocol exemption requests; authorizing health
22 maintenance organizations to request specified
23 documentation under certain circumstances; providing
24 an effective date.
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26 | Be It Enacted by the Legislature of the State of Florida:

27 |
 28 | Section 1. Section 627.42393, Florida Statutes, is amended
 29 | to read:

30 | 627.42393 Step-therapy protocol.—

31 | ~~(1)-(2)~~ As used in this section, the term:

32 | (a) "Health coverage plan" means any of the following
 33 | which is currently or was previously providing major medical or
 34 | similar comprehensive coverage or benefits to the insured:

35 | ~~1.(a)~~ A health insurer or health maintenance organization.

36 | ~~2.(b)~~ A plan established or maintained by an individual
 37 | employer as provided by the Employee Retirement Income Security
 38 | Act of 1974, Pub. L. No. 93-406.

39 | ~~3.(c)~~ A multiple-employer welfare arrangement as defined
 40 | in s. 624.437.

41 | ~~4.(d)~~ A governmental entity providing a plan of self-
 42 | insurance.

43 | (b) "Protocol exemption" means a determination by a health
 44 | insurer to authorize the use of another prescription drug,
 45 | medical procedure, or course of treatment prescribed or
 46 | recommended by the treating health care provider for the
 47 | insured's condition rather than the one specified by the health
 48 | insurer's step-therapy protocol.

49 | (c) "Step-therapy protocol" means a written protocol that
 50 | specifies the order in which certain prescription drugs, medical

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51 procedures, or courses of treatment must be used to treat an
 52 insured's condition.

53 (2)-(1) In addition to the protocol exemptions granted
 54 under subsection (3), a health insurer issuing a major medical
 55 individual or group policy may not require a step-therapy
 56 protocol under the policy for a covered prescription drug
 57 requested by an insured if:

58 (a) The insured has previously been approved to receive
 59 the prescription drug through the completion of a step-therapy
 60 protocol required by a separate health coverage plan; and

61 (b) The insured provides documentation originating from
 62 the health coverage plan that approved the prescription drug as
 63 described in paragraph (a) indicating that the health coverage
 64 plan paid for the drug on the insured's behalf during the 90
 65 days immediately before the request.

66 (3)(a) A health insurer shall publish on its website and
 67 provide to an insured in writing a procedure for the insured and
 68 his or her health care provider to request a protocol exemption
 69 or an appeal of the health insurer's denial of a protocol
 70 exemption request. The procedure must include, at a minimum:

71 1. The manner in which the insured or health care provider
 72 may request a protocol exemption, including a form to request
 73 the protocol exemption.

74 2. The manner and timeframe in which the health insurer
 75 authorizes or denies a protocol exemption request, which must

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76 | occur within a reasonable time.

77 | 3. The manner and timeframe in which the insured or health
 78 | care provider may appeal the health insurer's denial of a
 79 | protocol exemption request.

80 | (b) An authorization of a protocol exemption request must
 81 | specify the approved prescription drug, medical procedure, or
 82 | course of treatment. A denial of a protocol exemption request
 83 | must include a written explanation of the reason for the denial,
 84 | the clinical rationale that supports the denial, and the
 85 | procedure for appealing the health insurer's denial.

86 | (c) A health insurer may request relevant medical records
 87 | in support of a protocol exemption request.

88 | (4)~~(3)~~ This section does not require a health insurer to
 89 | add a drug to its prescription drug formulary or to cover a
 90 | prescription drug that the insurer does not otherwise cover.

91 | Section 2. Subsection (46) of section 641.31, Florida
 92 | Statutes, is amended to read:

93 | 641.31 Health maintenance contracts.—

94 | (46) (a)~~(b)~~ As used in this subsection, the term:

95 | 1. "Health coverage plan" means any of the following which
 96 | previously provided or is currently providing major medical or
 97 | similar comprehensive coverage or benefits to the subscriber:

98 | a.1. A health insurer or health maintenance organization.~~†~~

99 | b.2. A plan established or maintained by an individual
 100 | employer as provided by the Employee Retirement Income Security

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101 Act of 1974, Pub. L. No. 93-406.~~;~~

102 ~~c.3.~~ A multiple-employer welfare arrangement as defined in
 103 s. 624.437.~~;~~~~or~~

104 ~~d.4.~~ A governmental entity providing a plan of self-
 105 insurance.

106 2. "Protocol exemption" means a determination by a health
 107 maintenance organization to authorize the use of another
 108 prescription drug, medical procedure, or course of treatment
 109 prescribed or recommended by the treating health care provider
 110 for the subscriber's condition rather than the one specified by
 111 the health maintenance organization's step-therapy protocol.

112 3. "Step-therapy protocol" means a written protocol that
 113 specifies the order in which certain prescription drugs, medical
 114 procedures, or courses of treatment must be used to treat a
 115 subscriber's condition.

116 (b)(a) In addition to the protocol exemptions granted
 117 under paragraph (c), a health maintenance organization issuing
 118 major medical coverage through an individual or group contract
 119 may not require a step-therapy protocol under the contract for a
 120 covered prescription drug requested by a subscriber if:

121 1. The subscriber has previously been approved to receive
 122 the prescription drug through the completion of a step-therapy
 123 protocol required by a separate health coverage plan; and

124 2. The subscriber provides documentation originating from
 125 the health coverage plan that approved the prescription drug as

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126 described in subparagraph 1. indicating that the health coverage
 127 plan paid for the drug on the subscriber's behalf during the 90
 128 days immediately before the request.

129 (c)1. A health maintenance organization shall publish on
 130 its website and provide to a subscriber in writing a procedure
 131 for the subscriber and his or her health care provider to
 132 request a protocol exemption or an appeal of the health
 133 maintenance organization's denial of a protocol exemption
 134 request. The procedure must include, at a minimum:

135 a. The manner in which the subscriber or health care
 136 provider may request a protocol exemption, including a form to
 137 request the protocol exemption.

138 b. The manner and timeframe in which the health
 139 maintenance organization authorizes or denies a protocol
 140 exemption request, which must occur within a reasonable time.

141 c. The manner and timeframe in which the subscriber or
 142 health care provider may appeal the health maintenance
 143 organization's denial of a protocol exemption request.

144 2. An authorization of a protocol exemption request must
 145 specify the approved prescription drug, medical procedure, or
 146 course of treatment. A denial of a protocol exemption request
 147 must include a written explanation of the reason for the denial,
 148 the clinical rationale that supports the denial, and the
 149 procedure for appealing the health maintenance organization's
 150 denial.

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151 3. A health maintenance organization may request relevant
152 medical records in support of a protocol exemption request.

153 (d)-(e) This subsection does not require a health
154 maintenance organization to add a drug to its prescription drug
155 formulary or to cover a prescription drug that the health
156 maintenance organization does not otherwise cover.

157 Section 3. This act shall take effect July 1, 2022.