

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1148**

Introduced by Hansen, 16.

Read first time January 11, 2024

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to amend section 44-7,115,
- 2 Reissue Revised Statutes of Nebraska; to change requirements
- 3 relating to step-therapy as prescribed; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-7,115, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 44-7,115 (1) A step-therapy override exception shall be approved by  
4 a health carrier or utilization review organization if any of the  
5 following circumstances apply:

6 (a) The prescription drug required under the step-therapy protocol  
7 is contraindicated pursuant to the drug manufacturer's prescribing  
8 information for the drug or, due to a documented adverse event with a  
9 previous use or a documented medical condition, including a comorbid  
10 condition, is likely to do any of the following:

11 (i) Cause an adverse reaction to the covered individual;

12 (ii) Decrease the ability of the covered individual to achieve or  
13 maintain reasonable functional ability in performing daily activities; or

14 (iii) Cause physical or mental harm to the covered individual;

15 (b) The prescription drug required under the step-therapy protocol  
16 is expected to be ineffective based on the known clinical characteristics  
17 of the covered person, such as the covered person's adherence to or  
18 compliance with the covered person's individual plan of care, and any of  
19 the following:

20 (i) The known characteristics of the prescription drug regimen as  
21 described in peer-reviewed literature or in the manufacturer's  
22 prescribing information for the drug;

23 (ii) The health care provider's medical judgment based on clinical  
24 practice guidelines or peer-reviewed journals; or

25 (iii) The covered person's documented experience with the  
26 prescription drug regimen;

27 (c) The covered person has had a trial of a therapeutically  
28 equivalent dose of the prescription drug under the step-therapy protocol  
29 while under the covered person's current or previous health benefit plan  
30 for a period of time to allow for a positive treatment outcome, and such  
31 prescription drug was discontinued by the covered person's health care

1 provider due to lack of effectiveness; or

2 (d) The covered person is currently receiving a positive therapeutic  
3 outcome on a prescription drug selected by the covered person's health  
4 care provider for the medical condition under consideration while under  
5 the covered person's current or previous health benefit plan. Nothing in  
6 the Step-Therapy Reform Act shall prohibit the distribution of a  
7 pharmaceutical sample, except that the pharmaceutical sample may not be  
8 used to meet the requirements of this subdivision.

9 (2) Upon the approval of a step-therapy override exception, the  
10 health carrier or utilization review organization shall authorize  
11 coverage for the prescription drug selected by the covered person's  
12 prescribing health care provider if the prescription drug is a covered  
13 prescription drug under the covered person's health benefit plan.

14 (3) Except in the case of an urgent care request, a health carrier  
15 or utilization review organization shall make a determination to approve  
16 or deny a request for a step-therapy override exception within five  
17 calendar days after receipt of complete, clinically relevant written  
18 documentation supporting a step-therapy override exception under  
19 subsection (1) of this section. In the case of an urgent care request, a  
20 health carrier or utilization review organization shall approve or deny a  
21 request for a step-therapy override exception within seventy-two hours  
22 after receipt of such documentation. If a request for a step-therapy  
23 override exception is incomplete or additional clinically relevant  
24 information is required, the health carrier or utilization review  
25 organization may request such information within the applicable time  
26 period provided in this section. Once the information is submitted, the  
27 applicable time period for approval or denial shall begin again. If a  
28 health carrier or utilization review organization fails to respond to the  
29 request for a step-therapy override exception within the applicable time,  
30 the step-therapy override exception shall be deemed granted.

31 (4) If a request for a step-therapy override exception is denied,

1 the health carrier or utilization review organization shall provide the  
2 covered person or the covered person's authorized representative and the  
3 covered person's prescribing health care provider with the reason for the  
4 denial and information regarding the procedure to request external review  
5 of the denial pursuant to the Health Carrier External Review Act. Any  
6 denial of a request for a step-therapy override exception that is upheld  
7 on an internal appeal shall be considered a final adverse determination  
8 for purposes of the Health Carrier External Review Act and is eligible  
9 for a request for external review by a covered person or the covered  
10 person's authorized representative pursuant to the Health Carrier  
11 External Review Act.

12 (5) This section shall not be construed to prevent:

13 (a) A health carrier or utilization review organization from  
14 requiring a pharmacist to effect substitutions of prescription drugs  
15 consistent with section 28-414.01, 38-28,111, or 71-2478;

16 (b) A health care provider from prescribing a prescription drug that  
17 is determined to be medically appropriate; or

18 (c) A health carrier or utilization review organization from  
19 requiring a covered person to try a prescription drug with the same  
20 generic name and demonstrated bioavailability, a biosimilar, or a  
21 biological product that is an interchangeable biological product pursuant  
22 to the Nebraska Drug Product Selection Act prior to providing coverage  
23 for the equivalent branded prescription drug.

24 (6) For purposes of this section, biosimilar has the same meaning as  
25 defined in 42 U.S.C. 262(i)(2) or interchangeable biological product as  
26 defined in 42 U.S.C. 262(i)(3).

27 Sec. 2. Original section 44-7,115, Reissue Revised Statutes of  
28 Nebraska, is repealed.