

AMENDMENTS TO ASSEMBLY BILL NO. 1353

Amendment 1

In the title, in line 1, strike out "amend Section 1367.005 of" and insert:

add Sections 1367.245 and 1367.246 to

Amendment 2

In the title, in line 1, after "Code," insert:

and to add Sections 10123.203 and 10123.204 to the Insurance Code,

Amendment 3

On page 2, before line 1, insert:

SECTION 1. Section 1367.245 is added to the Health and Safety Code, immediately following Section 1367.244, to read:

1367.245. (a) Notwithstanding Section 1367.24, 1367.241, or any other law, a health care service plan that provides coverage for outpatient prescription drugs shall establish an expeditious process, as described in this section, by which enrollees, enrollees' designees, or prescribing providers may request and obtain an exception to any prior authorization process or any other utilization management or medical management practices utilized by the plan for medically necessary prescription drugs.

(b) A health care service plan shall grant an exception request under this section if both of the following are met:

(1) Either the enrollee was previously prescribed the prescription drug, within 100 days prior to his/her enrollment in the health care service plan or the prescription drug had, within 100 days prior to the exception request, been previously approved for coverage by the plan for a the same medical condition of the enrollee.

(2) The enrollee is medically stable and the enrollee's prescribing provider continues, at least once every 100 days from the date of the last prescription for the same drug, to prescribe the drug for the same medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the enrollee's medical condition.

(c) (1) A health care service plan shall respond to an exception request within 72 hours following receipt of the exception request. A plan that grants an exception request under this subdivision shall provide coverage of the prescription drug for the duration of the medical condition for which the medication was prescribed.

(2) A health care service plan shall provide that an exception request may be obtained within 24 hours if an enrollee is suffering from a health condition that may seriously jeopardize his or her life, health, or ability to regain maximum function or if an enrollee is undergoing a current course of treatment using that prescription drug. A plan that grants an exception request under this subdivision based on exigent circumstances shall provide coverage for the duration of the medical condition for which the medication was prescribed.

(d) If a health care service plan fails to respond within 72 hours, or within 24 hours if exigent circumstances exist, upon receipt of a completed exception request, the exception request shall be deemed to have been granted.

(e) A health care service plan that denies a request made pursuant to this section to obtain an exception to any prior authorization process or any other reasonable utilization management or medical management practices utilized by the plan for a medically necessary prescription drug shall provide the reasons for the denial in a notice provided to the enrollee. The notice shall indicate that the enrollee may file a grievance with the plan if the enrollee objects to the denial. The notice shall comply with subdivision (b) of Section 1368.02.

SEC. 2. Section 1367.246 is added to the Health and Safety Code, immediately following Section 1367.245, to read:

1367.246. Notwithstanding subdivision (c) of Section 1367.22, Section 1367.24, or any other law, a health care service plan contract issued, amended, or renewed on or after January 1, 2018, that provides coverage for outpatient prescription drugs shall provide coverage, without imposing a prior authorization or step therapy process, or any other reasonable utilization management or medical management practices, for a medically necessary nonformulary prescription drug prescribed for an enrollee that was, within the 100 day period immediately preceding the date of the prescription, previously included on a formulary or formularies for outpatient prescription drugs maintained by the plan if all of the following conditions are satisfied:

- (a) The enrollee was, within the immediately preceding 100 days, previously prescribed that nonformulary prescription drug.
- (b) The enrollee is medically stable.
- (c) The drug previously had been approved for coverage by the plan for a the same medical condition of the enrollee and the enrollee's prescribing provider continues, at least once every 100 days from the date of the last prescription for the same drug, to prescribe the drug for the same medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the enrollee's medical condition.

(d) The enrollee's prescribing provider has determined that prescribing an alternative formulary prescription drug is not medically appropriate for the enrollee or represents a significant health risk to the enrollee.

SEC. 3. Section 10123.203 is added to the Insurance Code, to read:

10123.203. (a) Notwithstanding Section 10123.191 or any other law, a health insurer that provides coverage for outpatient prescription drugs shall establish an expeditious process, as described in this section, by which insureds, insureds' designees, or prescribing providers may request and obtain an exception to any prior authorization process or any other utilization management or medical management practices utilized by the health insurer for medically necessary prescription drugs.

(b) A health insurer shall grant an exception request under this section if both of the following are met:

- (1) Either the insured was previously prescribed the prescription drug within 100 days prior to enrollment or the prescription drug had, within 100 days prior to the exception request, been previously approved for coverage by the health insurer for a the same medical condition of the insured.
- (2) The insured is medically stable and the insured's prescribing provider continues, at least once every 100 days from the date of the last prescription for the same drug, to prescribe the drug for the same medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the insured's medical condition.

(c) (1) A health insurer shall respond to an exception request within 72 hours following receipt of the exception request. A health insurer that grants an exception

request under this subdivision shall provide coverage of the prescription drug for the duration of the medical condition for which the medication was prescribed.

(2) A health insurer shall provide that an exception request may be obtained within 24 hours if an insured is suffering from a health condition that may seriously jeopardize his or her life, health, or ability to regain maximum function or if an insured is undergoing a current course of treatment using that prescription drug. A health insurer that grants an exception request under this subdivision based on exigent circumstances shall provide coverage for the duration of the medical condition for which the medication was prescribed.

(d) If a health insurer fails to respond within 72 hours, or within 24 hours if exigent circumstances exist, upon receipt of a completed exception request, the exception request shall be deemed to have been granted.

(e) A health insurer that denies a request made pursuant to this section to obtain an exception to any prior authorization process or any other reasonable utilization management or medical management practices utilized by the health insurer for a medically necessary prescription drug shall provide the reasons for the denial in a notice provided to the insured. The notice shall indicate that the insured may file a grievance with the health insurer if the insured objects to the denial.

SEC. 4. Section 10123.204 is added to the Insurance Code, to read:

10123.204. Notwithstanding any other law, a health insurance policy issued, amended, or renewed on or after January 1, 2018, that provides coverage for outpatient prescription drugs shall provide coverage, without imposing a prior authorization or step therapy process, or any other reasonable utilization management or medical management practices, for a medically necessary nonformulary prescription drug prescribed for an insured that was, within the 100 day period immediately preceding the date of the prescription, previously included on a formulary or formularies for outpatient prescription drugs maintained by the health insurer if all of the following conditions are satisfied:

(a) The insured was, within the immediately preceding 100 days, previously prescribed that nonformulary prescription drug.

(b) The insured is medically stable.

(c) The drug previously had been approved for coverage by the health insurer for a the same medical condition of the insured and the insured's prescribing provider continues, at least once every 100 days from the date of the last prescription for the same drug, to prescribe the drug for the same medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the insured's medical condition.

(d) The insured's prescribing provider has determined that prescribing an alternative formulary prescription drug is not medically appropriate for the insured or represents a significant health risk to the insured.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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Substantive

Amendment 4

On page 2, strike out lines 1 to 29, inclusive, and strike out pages 3 to 7, inclusive

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