

4823

2011-2012 Regular Sessions

I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. P. RIVERA -- read once and referred to the
Committee on Health

AN ACT to amend the social services law and the public health law, in
relation to drug utilization review and the preferred drug program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 4 of section 369-cc of the social services law,
2 as added by section 39 of part C of chapter 58 of the laws of 2009, is
3 amended to read as follows:
4 4. (a) The commissioner, through the prospective DUR program, may
5 require step therapy when there is more than one drug appropriate to
6 treat a medical condition. The purpose of step therapy is to encourage
7 the use of medically appropriate, cost effective drugs when clinically
8 indicated and to limit use of alternative drug therapies unless certain
9 clinical requirements are met. The DUR board shall recommend guidelines
10 for specific diagnoses and therapy regimens within which practitioners
11 may prescribe drugs without the requirement for prior authorization of
12 those drugs. In establishing these guidelines, the board shall consider
13 clinical effectiveness, safety, and cost effectiveness. Prior authori-
14 zation under this paragraph shall be obtained under section two hundred
15 seventy-three of the public health law. IN ADDITION, THE AUTHORITY TO
16 REQUIRE STEP THERAPY AS AUTHORIZED BY THIS PARAGRAPH SHALL NOT APPLY TO:
17 (I) ATYPICAL ANTI-PSYCHOTICS;
18 (II) ANTI-DEPRESSANTS;
19 (III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;
20 (IV) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE
21 TRANSPLANTS; AND
22 (V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR
23 HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.
24 (b) The commissioner, through the prospective DUR program, may from
25 time to time limit the quantity, frequency, and duration of drug thera-
26 py, using guidelines developed by the DUR board. The DUR board shall
27 develop clinical prescribing guidelines relating to quantity, frequency,
28 and duration of drug therapy for the commissioner's use under this para-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 graph. In establishing these guidelines, the board shall consider clin-
2 ical effectiveness, safety, and cost effectiveness. Prior authorization
3 under this paragraph shall be obtained under section two hundred seven-
4 ty-three of the public health law. Exceptions to any prior authorization
5 imposed as a result of these guidelines shall include, but need not be
6 limited to, provision for emergency circumstances where a medical condi-
7 tion requires alleviation of severe pain or which threatens to cause
8 disability or to take a life if not promptly treated. PRIOR AUTHORI-
9 ZATION UNDER THIS PARAGRAPH SHALL BE OBTAINED PURSUANT TO SECTION TWO
10 HUNDRED SEVENTY-THREE OF THE PUBLIC HEALTH LAW. IN ADDITION, THE
11 AUTHORITY TO LIMIT THE QUANTITY, FREQUENCY AND DURATION OF DRUG THERAPY
12 AS AUTHORIZED BY THIS PARAGRAPH SHALL NOT APPLY TO:

13 (I) ATYPICAL ANTI-PSYCHOTICS;
14 (II) ANTI-DEPRESSANTS;
15 (III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;
16 (IV) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE
17 TRANSPLANTS; AND

18 (V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR
19 HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.

20 S 2. Paragraph (b) of subdivision 11 of section 272 of the public
21 health law, as added by section 36 of part C of chapter 58 of the laws
22 of 2009, is amended to read as follows:

23 (b) (I) The commissioner may designate a pharmaceutical manufacturer
24 as one with whom the commissioner is negotiating or has negotiated a
25 manufacturer agreement, and all of the drugs it manufactures or markets
26 shall be included in the preferred drug program. The commissioner may
27 negotiate directly with a pharmaceutical manufacturer for rebates relat-
28 ing to any or all of the drugs it manufactures or markets. A manufactur-
29 er agreement shall designate any or all of the drugs manufactured or
30 marketed by the pharmaceutical manufacturer as being preferred or non
31 preferred drugs. When a pharmaceutical manufacturer has been designated
32 by the commissioner under this paragraph but has not reached a manufac-
33 turer agreement with the pharmaceutical manufacturer, then all of the
34 drugs manufactured or marketed by the pharmaceutical manufacturer shall
35 be non preferred drugs. However, notwithstanding this paragraph, any
36 drug that is selected to be on the preferred drug list under paragraph
37 (b) of subdivision ten of this section on grounds that it is signif-
38 icantly more clinically effective and safer than other drugs in its
39 therapeutic class shall be a preferred drug.

40 (II) PRIOR AUTHORIZATION UNDER THIS PARAGRAPH SHALL BE OBTAINED PURSU-
41 ANT TO THIS SECTION. IN ADDITION, THE AUTHORITY TO DESIGNATE DRUGS AS
42 PREFERRED OR NON PREFERRED PURSUANT TO AN AGREEMENT AUTHORIZED BY THIS
43 PARAGRAPH SHALL NOT APPLY TO:

44 (A) ATYPICAL ANTI-PSYCHOTICS;
45 (B) ANTI-DEPRESSANTS;
46 (C) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;
47 (D) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE
48 TRANSPLANTS; AND

49 (E) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR
50 HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.

51 S 3. This act shall take effect immediately, provided that the amend-
52 ments to section 272 of the public health law, made by section two of
53 this act, shall not affect the repeal of such section and shall expire
54 and be deemed repealed therewith.