

1 (2) CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT AND PAYMENT OF CLAIMS
2 TO PHARMACIES FOR DISPENSING PRESCRIPTION DRUGS;

3 (3) CLINICAL OR OTHER FORMULARY, OR PREFERRED DRUG LIST DEVELOPMENT OR
4 MANAGEMENT;

5 (4) NEGOTIATION OR ADMINISTRATION OF REBATES, DISCOUNTS, PAYMENT
6 DIFFERENTIALS OR OTHER INCENTIVES FOR THE INCLUSION OF PARTICULAR
7 PRESCRIPTION DRUGS IN A PARTICULAR CATEGORY OR TO PROMOTE THE PURCHASE
8 OF PARTICULAR PRESCRIPTION DRUGS;

9 (5) PATIENT COMPLIANCE, THERAPEUTIC INTERVENTION AND GENERIC SUBSTI-
10 TUTION PROGRAMS; AND

11 (6) DISEASE MANAGEMENT.

12 S 3302. PRESCRIPTION DRUG RESTRICTION OVERRIDES. (A) WHEN MEDICATIONS
13 FOR THE TREATMENT OF ANY MEDICAL CONDITION ARE RESTRICTED FOR USE BY AN
14 INSURER OR PBM BY A STEP THERAPY OR FAIL FIRST PROTOCOL, A PRESCRIBER
15 SHALL HAVE ACCESS TO A CLEAR AND CONVENIENT PROCESS AT NO CHARGE TO SUCH
16 PRESCRIBER AND/OR PATIENT TO OVERRIDE SUCH RESTRICTIONS FROM THE INSURER
17 AND MAY EXPEDITIOUSLY OVERRIDE SUCH RESTRICTION IF:

18 (1) SUCH PRESCRIBER, IN HIS OR HER PROFESSIONAL JUDGMENT, BELIEVES
19 THAT THE PREFERRED TREATMENT BY THE INSURER OR THE PBM HAS BEEN INEFFECTIVE
20 IN THE TREATMENT OF THE COVERED PERSON'S DISEASE OR MEDICAL CONDI-
21 TION; OR

22 (2) BASED ON SOUND CLINICAL EVIDENCE AND MEDICAL AND SCIENTIFIC
23 EVIDENCE:

24 (A) SUCH PRESCRIBER, IN HIS OR HER PROFESSIONAL JUDGMENT, BELIEVES
25 THAT THE PREFERRED TREATMENT IS EXPECTED TO BE INEFFECTIVE BASED ON THE
26 KNOWN RELEVANT PHYSICAL OR MENTAL CHARACTERISTICS OF THE COVERED PERSON
27 AND KNOWN CHARACTERISTICS OF THE DRUG REGIMEN, AND IS LIKELY TO BE INEF-
28 FECTIVE OR ADVERSELY AFFECT THE DRUG'S EFFECTIVENESS OR PATIENT COMPLI-
29 ANCE; OR

30 (B) SUCH PRESCRIBER, IN HIS OR HER PROFESSIONAL JUDGMENT, BELIEVES
31 THAT THE PREFERRED TREATMENT HAS CAUSED OR IS LIKELY TO CAUSE AN ADVERSE
32 REACTION OR OTHER HARM TO THE COVERED PERSON.

33 (B) THE DURATION OF ANY STEP THERAPY OR FAIL FIRST PROTOCOL SHALL NOT
34 BE LONGER THAN EITHER (1) THE PERIOD DEEMED NECESSARY BY THE PRESCRIBING
35 PHYSICIAN OR HEALTH CARE PROFESSIONAL TO DETERMINE THE TREATMENT'S CLIN-
36 ICAL EFFECTIVENESS, OR (2) A PERIOD OF THIRTY DAYS.

37 (C) NOTHING IN THIS SECTION SHALL REQUIRE COVERAGE FOR AN ADDITIONAL
38 CONDITION NOT ALREADY COVERED BY THE POLICY OR CONTRACT, OR WHICH IS NOT
39 OTHERWISE COVERED BY LAW.

40 S 2. This act shall take effect on the one hundred twentieth day after
41 it shall have become a law.