STATE OF NEW YORK

9265

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to requiring notice of adverse step therapy determinations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (a) of section 4902 of the insurance law is
2 amended by adding a new paragraph 14 to read as follows:
3 (14) Establishment of a written procedure to assure that the notice of
4 an adverse determination in relation to a step therapy protocol override
5 determination request includes:
6 (i) the reasons for the determination including the clinical ration-
7 ale, if any;
8 (ii) instructions on how to initiate standard and expedited appeals
9 pursuant to section four thousand nine hundred four of this article and
10 an external appeal pursuant to section four thousand nine hundred four-
11 teen of this article;
12 (iii) information that includes: any applicable alternative covered
13 medications; the clinical review criteria relied upon to make such
14 determination; and any additional necessary information that must be
15 provided to, or obtained by, the utilization review agent in order to
16 render a decision on the appeal.
17 § 2. Section 4903 of the insurance law is amended by adding a new
18 subsection (e-1) to read as follows:
19 (e-1) Notice of an adverse determination made by a utilization review
20 agent in relation to a step therapy protocol override determination
21 request shall be made in writing to the insured or the insured's author-
22 ized representative and the insured's prescribing health care profes-
23 sional as defined in subsection (f) of section forty-nine hundred of
24 this chapter, and shall include:
25 (i) the reasons for the determination including the clinical ration-
26 ale, if any;
27 (ii) instructions on how to initiate standard and expedited appeals
28 pursuant to section four thousand nine hundred four of this article and

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

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an external appeal pursuant to section four thousand nine hundred fourteen of this article;

(iii) information that includes: any applicable alternative covered medications; the clinical review criteria relied upon to make such determination; and any additional necessary information that must be provided to, or obtained by, the utilization review agent in order to render a decision on the appeal.

§ 3. Subdivision 1 of section 4902 of the public health law is amended by adding a new paragraph (l) to read as follows:

(l) Establishment of a written procedure to assure that the notice of an adverse determination in relation to a step therapy protocol override determination request includes: (i) the reasons for the determination including the clinical rationale, if any; (ii) instructions on how to initiate standard and expedited appeals pursuant to subdivision two of section forty-nine hundred four of this title and an external appeal pursuant to section forty-nine hundred fourteen of this article; (iii) information that includes: any applicable alternative covered medications; the clinical review criteria relied upon to make such determination; and any additional necessary information that must be provided to, or obtained by, the utilization review agent in order to render a decision on the appeal.

§ 4. Section 4903 of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-a. Notice of an adverse determination made by a utilization review agent in relation to a step therapy protocol override determination request shall be made in writing to the enrollee or the enrollee's authorized representative and the enrollee's prescribing health care professional as defined in subdivision six of section forty-nine hundred of this title, and shall include:

(a) the reasons for the determination including the clinical rationale, if any;

(b) instructions on how to initiate standard and expedited appeals pursuant to section forty-nine hundred four of this title and an external appeal pursuant to section forty-nine hundred fourteen of this article;

(c) information that includes: any applicable alternative covered medications; the clinical review criteria relied upon to make such determination; and any additional necessary information that must be provided to, or obtained by, the utilization review agent in order to render a decision on the appeal.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.