

# STATE OF NEW YORK

8798

## IN SENATE

April 18, 2022

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to enhanced disclosure of step therapy override requests and determinations; and to repeal certain provisions of such laws relating thereto

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

1 Section 1. Section 4903 of the insurance law is amended by adding two  
2 new subsections (j) and (k) to read as follows:

3 (j) Each health care plan and utilization review agent shall annually,  
4 in such form as the superintendent shall require, report information to  
5 the department regarding step therapy override requests and determi-  
6 nations. Such reports shall, among other things, separately identify the  
7 following information, organized by individual drug name and drug cate-  
8 gory and class:

9 (1) The number of step therapy override determination requests  
10 received;

11 (2) The type of health care providers or the medical specialties of  
12 the health care providers submitting requests;

13 (3) The number of step therapy override determination requests that  
14 were initially denied and the reasons for such denials;

15 (4) The number of step therapy override determination requests that  
16 were initially approved; and

17 (5) The number of step therapy override determination requests that  
18 were reversed on internal appeal.

19 (k) Each health care plan and utilization review agent shall disclose,  
20 in such form as the superintendent shall require, non-confidential  
21 information regarding step therapy override requests and determinations  
22 on a website or web-based tool that is readily accessible to the public.  
23 Such disclosure shall, among other things, separately identify the  
24 following information, organized by individual drug name and drug cate-  
25 gory and class:

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

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1 (1) The number of step therapy override determination requests  
2 received;

3 (2) The type of health care providers or the medical specialties of  
4 the health care providers submitting requests;

5 (3) The number of step therapy override determination requests that  
6 were initially denied and the reasons for such denials;

7 (4) The number of step therapy override determination requests that  
8 were initially approved; and

9 (5) The number of step therapy override determination requests that  
10 were reversed on internal appeal.

11 § 2. Section 4903 of the public health law is amended by adding two  
12 new subdivisions 10 and 11 to read as follows:

13 10. Each health care plan and utilization review agent shall annually,  
14 in such form as the commissioner shall require, report information to  
15 the department regarding step therapy override determination requests  
16 and the outcomes of such requests. Such reports shall, among other  
17 things, separately identify the following information, organized by  
18 individual drug name and drug category and class:

19 (a) The number of step therapy override determination requests  
20 received;

21 (b) The type of health care providers or the medical specialties of  
22 the health care providers submitting requests;

23 (c) The number of step therapy override determination requests that  
24 were initially denied and the reasons for such denials;

25 (d) The number of step therapy override determination requests that  
26 were initially approved; and

27 (e) The number of step therapy override determination requests that  
28 were reversed on internal appeal.

29 11. Each health care plan and utilization review agent shall disclose,  
30 in such form as the commissioner shall require, non-confidential infor-  
31 mation regarding step therapy override requests and determinations on a  
32 website or web-based tool that is readily accessible to the public.  
33 Such disclosure shall, among other things, separately identify the  
34 following information, organized by individual drug name and drug cate-  
35 gory and class:

36 (a) The number of step therapy override determination requests  
37 received;

38 (b) The type of health care providers or the medical specialties of  
39 the health care providers submitting requests;

40 (c) The number of step therapy override determination requests that  
41 were initially denied and the reasons for such denials;

42 (d) The number of step therapy override determination requests that  
43 were initially approved; and

44 (e) The number of step therapy override determination requests that  
45 were reversed on internal appeal.

46 § 3. Paragraph 10 of subsection (b) of section 3217-a of the insurance  
47 law is REPEALED and three new subsections (g), (h) and (i) are added to  
48 read as follows:

49 (g) Where applicable, each insurer subject to this article shall  
50 disclose information on step therapy protocols, step therapy override  
51 determinations, and internal and external appeals, as governed by arti-  
52 cle forty-nine of this chapter, and any associated clinical review  
53 criteria pertaining to specific conditions and diseases. Such informa-  
54 tion shall be made readily accessible on the insurer's website or web-  
55 based tool and, upon request, in written or electronic form to an  
56 insured or an insured's authorized representative and a health care

1 professional as defined in subsection (f) of section four thousand nine  
2 hundred of this chapter.

3 (h) If an insurer subject to this article intends either to implement  
4 a new requirement or restriction or amend an existing requirement or  
5 restriction, relating to a step therapy protocol, internal or external  
6 step therapy appeals protocol, or associated clinical review criteria,  
7 such insurer shall ensure that such new or amended requirement or  
8 restriction is not implemented unless such insurer's website or web-  
9 based tool has been updated to reflect such new or amended requirement  
10 or restriction.

11 (i) If an insurer subject to this article intends either to implement  
12 a new requirement or restriction, or amend an existing requirement or  
13 restriction, relating to a step therapy protocol, internal or external  
14 step therapy appeals protocol, or associated clinical review criteria,  
15 such insurer shall provide any insured or health care professional as  
16 defined in subsection (f) of section four thousand nine hundred of this  
17 chapter who may be impacted by such new requirement, restriction, or  
18 amendment with written notice of such new requirement, restriction, or  
19 amendment no less than sixty days before implementation. Such notice may  
20 be delivered electronically or by other means.

21 § 4. Paragraph 10 of subsection (b) of section 4324 of the insurance  
22 law is REPEALED and three new subsections (g), (h) and (i) are added to  
23 read as follows:

24 (g) Where applicable, each health service, hospital service, or  
25 medical indemnity corporation subject to this article shall disclose  
26 information on step therapy protocols, step therapy override determi-  
27 nations, and internal and external appeals, as governed by article  
28 forty-nine of this chapter, and any associated clinical review criteria  
29 pertaining to specific conditions and diseases. Such information shall  
30 be made readily accessible on such health service, hospital service, or  
31 medical indemnity corporation's website or web-based tool and, upon  
32 request, in written or electronic form to an insured or the insured's  
33 authorized representative and a health care professional as defined in  
34 subsection (f) of section four thousand nine hundred of this chapter.

35 (h) If a health service, hospital service, or medical indemnity corpo-  
36 ration subject to this article intends either to implement a new  
37 requirement or restriction or amend an existing requirement or  
38 restriction, relating to a step therapy protocol, internal or external  
39 step therapy appeals protocol, or associated clinical review criteria,  
40 such health service, hospital service, or medical indemnity corporation  
41 shall ensure that such new or amended requirement or restriction is not  
42 implemented unless such health service, hospital service, or medical  
43 indemnity corporation's website or web-based tool has been updated to  
44 reflect such new or amended requirement or restriction.

45 (i) If a health service, hospital service, or medical indemnity corpo-  
46 ration subject to this article intends either to implement a new  
47 requirement or restriction or amend an existing requirement or  
48 restriction, relating to a step therapy protocol, internal or external  
49 step therapy appeals protocol, or associated clinical review criteria,  
50 such health service, hospital service, or medical indemnity corporation  
51 shall provide any insured or health care professional as defined in  
52 subsection (f) of section four thousand nine hundred of this chapter who  
53 may be impacted by such new requirement, restriction, or amendment with  
54 written notice of such new requirement, restriction, or amendment no  
55 less than sixty days before implementation. Such notice may be delivered  
56 electronically or by other means.

1 § 5. Paragraph (j) of subdivision 2 of section 4408 of the public  
2 health law is REPEALED and three new subdivisions 8, 9 and 10 and are  
3 added to read as follows:

4 8. Where applicable, each health maintenance organization subject to  
5 this article shall disclose information on step therapy protocols, step  
6 therapy override determinations, and internal and external appeals, as  
7 governed by article forty-nine of this chapter, and any associated clin-  
8 ical review criteria pertaining to specific conditions and diseases.  
9 Such information shall be made readily accessible on such health mainte-  
10 nance organization's website or web-based tool and, upon request, in  
11 written or electronic form to an enrollee or the enrollee's authorized  
12 representative and a health care professional as defined in subsection  
13 (f) of section four thousand nine hundred of this chapter.

14 9. If a health maintenance organization subject to this article  
15 intends either to implement a new requirement or restriction or amend an  
16 existing requirement or restriction, relating to a step therapy proto-  
17 col, internal or external step therapy appeals protocol, or associated  
18 clinical review criteria, such health maintenance organization shall  
19 ensure that such new or amended requirement or restriction is not imple-  
20 mented unless such health maintenance organization's website or web-  
21 based tool has been updated to reflect such new or amended requirement  
22 or restriction.

23 10. If a health maintenance organization subject to this article  
24 intends either to implement a new requirement or restriction or amend an  
25 existing requirement or restriction, relating to a step therapy proto-  
26 col, internal or external step therapy appeals protocol, or associated  
27 clinical review criteria, such health maintenance organization shall  
28 provide any enrollee or health care professional as defined in  
29 subsection (f) of section four thousand nine hundred of this chapter who  
30 may be impacted by such new requirement, restriction, or amendment with  
31 written notice of such new requirement, restriction, or amendment no  
32 less than sixty days before implementation. Such notice may be delivered  
33 electronically or by other means.

34 § 6. This act shall take effect immediately.