

# STATE OF NEW YORK

8194

## IN SENATE

February 1, 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 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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1 an external appeal pursuant to section four thousand nine hundred four-  
2 teen of this article;

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

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

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

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

24 5-a. Notice of an adverse determination made by a utilization review  
25 agent in relation to a step therapy protocol override determination  
26 request shall be made in writing to the enrollee or the enrollee's  
27 authorized representative and the enrollee's prescribing health care  
28 professional as defined in subdivision six of section forty-nine hundred  
29 of this title, and shall include:

30 (a) the reasons for the determination including the clinical ration-  
31 ale, if any;

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

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

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