

# STATE OF NEW YORK

463

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

Introduced by M. of A. McDONALD, STECK -- 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:

Section 1. Subsection (a) of section 4902 of the insurance law is amended by adding a new paragraph 14 to read as follows:

(14) 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 section four thousand nine hundred four of this article and 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.

§ 2. Section 4903 of the insurance law is amended by adding a new subsection (e-1) to read as follows:

(e-1) 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 insured or the insured's authorized representative and the insured's prescribing health care professional as defined in subsection (f) of section forty-nine hundred of this chapter, and shall include:

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

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1 (i) the reasons for the determination including the clinical ration-  
2 ale, if any;

3 (ii) instructions on how to initiate standard and expedited appeals  
4 pursuant to section four thousand nine hundred four of this article and  
5 an external appeal pursuant to section four thousand nine hundred four-  
6 teen of this article;

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

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

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

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

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

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

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

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

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