

STATE OF NEW YORK

2677

2023-2024 Regular Sessions

IN SENATE

January 24, 2023

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:

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

LBD02500-01-3

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.