STATE OF NEW YORK

2800

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 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:

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

(j) Each health care plan and utilization review agent shall annually, in such form as the superintendent shall require, report information to the department regarding step therapy override requests and determinations. Such reports shall, among other things, separately identify the following information, organized by individual drug name and drug category and class:

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

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

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

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

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

(k) Each health care plan and utilization review agent shall disclose, in such form as the superintendent shall require, non-confidential information regarding step therapy override requests and determinations on a website or web-based tool that is readily accessible to the public. Such disclosure shall, among other things, separately identify the

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

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following information, organized by individual drug name and drug category and class:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Where applicable, each insurer subject to this article shall disclose information on step therapy protocols, step therapy override determinations, and internal and external appeals, as governed by article forty-nine of this chapter, and any associated clinical review criteria pertaining to specific conditions and diseases. Such information shall be made readily accessible on the insurer's website or web-

based tool and, upon request, in written or electronic form to an insured or an insured's authorized representative and a health care professional as defined in subsection (f) of section four thousand nine hundred of this chapter.

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

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

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

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

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

(i) If a health service, hospital service, or medical indemnity corporation subject to this article intends either to implement a new requirement or restriction or amend an existing requirement or restriction, relating to a step therapy protocol, internal or external step therapy appeals protocol, or associated clinical review criteria, such health service, hospital service, or medical indemnity corporation shall provide any insured or health care professional as defined in subsection (f) of section four thousand nine hundred of this chapter who may be impacted by such new requirement, restriction, or amendment with written notice of such new requirement, restriction, or amendment no

less than sixty days before implementation. Such notice may be delivered electronically or by other means.

§ 5. Paragraph (j) of subdivision 2 of section 4408 of the public health law is REPEALED and three new subdivisions 9, 10 and 11 are added to read as follows:

9. Where applicable, each health maintenance organization subject to this article shall disclose information on step therapy protocols, step therapy override determinations, and internal and external appeals, as governed by article forty-nine of this chapter, and any associated clinical review criteria pertaining to specific conditions and diseases. Such information shall be made readily accessible on such health maintenance organization's website or web-based tool and, upon request, in written or electronic form to an enrollee or the enrollee's authorized representative and a health care professional as defined in subdivision six of section forty-nine hundred of this chapter.

10. If a health maintenance organization subject to this article intends either to implement a new requirement or restriction or amend an existing requirement or restriction, relating to a step therapy protocol, internal or external step therapy appeals protocol, or associated clinical review criteria, such health maintenance organization shall ensure that such new or amended requirement or restriction is not implemented unless such health maintenance organization's website or web-based tool has been updated to reflect such new or amended requirement or restriction.

11. If a health maintenance organization subject to this article intends either to implement a new requirement or restriction or amend an existing requirement or restriction, relating to a step therapy protocol, internal or external step therapy appeals protocol, or associated clinical review criteria, such health maintenance organization shall provide any enrollee or health care professional as defined in subdivision six of section forty-nine hundred of this chapter who may be impacted by such new requirement, restriction, or amendment with written notice of such new requirement, restriction, or amendment no less than sixty days before implementation. Such notice may be delivered electronically or by other means.

§ 6. This act shall take effect immediately.