

# 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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1 following information, organized by individual drug name and drug cate-  
2 gory and class:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 § 6. This act shall take effect immediately.