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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO INSURANCE - COVERAGE FOR PRESCRIPTION DRUGS

Introduced By: Senators Crowley, Sosnowski, Metts, and Pichardo

Date Introduced: February 12, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness Insurance Policies" is hereby amended by adding thereto the following section:

27-18-82. Access to Abuse-Deterrent Pain Medications.-- (a) No individual or group health insurance contract or individual or group hospital or medical expense insurance policy, plan, or group policy issued for delivery, or renewed in this state on or after the passage of this act that provides coverage for prescription drugs shall require, as a condition of coverage for pain medication prescribed for chronic pain unrelated to cancer:

(1) Use of a non-abuse-deterrent formulation prior to use of an abuse-deterrent formulation for the treatment of pain, unless the formulation has never been tried before.

(2) Use of an opioid drug that is not approved by the United States Food and Drug Administration (FDA) for the condition being treated prior to the use of a non-opioid drug that is FDA-approved for the condition being treated.

(b) For the purpose of this section:

(1) "Abuse-deterrent formulation" means a drug used to treat pain that is considered to have abuse-deterrent properties if the FDA determines there is sufficient evidence to support abuse-deterrent claims based on published FDA guidance that the product has been deemed to be clinically superior from a safety perspective compared to other drug formulation technologies.

(2) "Chronic pain" means pain of greater than thirty (30) day's duration.

(c) Health insurance contracts, plans or policies to which this section applies may require

an insured to use prior to using a brand name prescription pain medication prescribed by a licensed prescriber, a therapeutically equivalent generic pain medication, unless, pursuant to §§ 5-19.1-19, 5-37-18.1 and 21-31-15(b), the prescriber indicates "brand name necessary" on the prescription form, or if the prescriber gives oral direction to that effect to the dispensing pharmacist, subject to the insured's medication formulary.

(d) Short-acting formulations of pain medication shall not be subject to this section

(e) The provisions of this section shall expire on January 1, 2018.

SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service Corporations" is hereby amended by adding thereto the following section:

27-19-73. Access to Abuse-Deterrent Pain Medications.-- (a) Every individual or group health insurance contract or every individual or group hospital or medical expense insurance policy, plan, or group policy issued for delivery, or renewed in this state on or after the passage of this act that provides coverage for prescription drugs shall not require, as a condition of coverage for pain medication prescribed for chronic pain unrelated to cancer:

(1) Use of an opioid drug that is not approved by the United States Food and Drug Administration (FDA) for the condition being treated prior to the use of a non-opioid drug that is FDA-approved for the condition being treated; or

(2) Use of a non-abuse-deterrent formulation prior to use of an abuse-deterrent formulation for the treatment of pain.

(b) For the purpose of this section:

(1) "Abuse-deterrent formulation" means a drug used to treat pain that is considered to have abuse-deterrent properties if the FDA determines there is sufficient evidence to support abuse-deterrent claims based on published FDA guidance.

(2) "Chronic pain" means pain of greater than thirty (30) days' duration.

(c) Health insurance contracts, plans or policies to which this section applies may require an insured to use, prior to using a brand name prescription pain medication prescribed by a licensed prescriber, a therapeutically equivalent generic pain medication , unless pursuant to §§ 5-19.1-19, 5-37-18.1 and 21-31-15(b), the prescriber indicates "brand name necessary" on the prescription form, or if the prescriber gives oral direction to that effect to the dispensing pharmacist, subject to the insured's medication formulary.

(d) Short-acting formulations of pain medication shall not be subject to this section.

(e) The provisions of this section shall expire on January 1, 2018.

SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service Corporations" is hereby amended by adding thereto the following section:

27-20-69. Access to Abuse-Deterrent Pain Medications. -- (a) Every individual or group health insurance contract, or every individual or group hospital or medical expense insurance policy, plan, or group policy issued for delivery, or renewed in this state on or after the passage of this act that provides coverage for prescription drugs shall not require, as a condition of coverage for pain medication prescribed for chronic pain unrelated to cancer:

(1) Use of an opioid drug that is not approved by the United States Food and Drug Administration (FDA) for the condition being treated prior to the use of a non-opioid drug that is FDA-approved for the condition being treated; or

(2) Use of a non-abuse-deterrent formulation prior to use of an abuse-deterrent formulation for the treatment of pain.

(b) For the purpose of this section:

(1) "Abuse-deterrent formulation" means a drug used to treat pain that is considered to have abuse-deterrent properties if the FDA determines there is sufficient evidence to support abuse-deterrent claims based on published FDA guidance.

(2) “Chronic pain” means pain of greater than thirty (30) days’ duration.

(c) Health insurance contracts, plans or policies to which this section applies may require an insured to use, prior to using a brand name prescription pain medication prescribed by a licensed prescriber, a therapeutically equivalent generic pain medication, unless, pursuant to §§ 5-19.1-19, 5-3 7-18.1 and 21-31-15(b), the prescriber indicates "brand name necessary" on the prescription form, or if the prescriber gives oral direction to that effect to the dispensing pharmacist subject to the insured’s medication formulary.

(d) Short-acting formulations of pain medication shall not be subject to this section.

(e) The provisions of this section shall expire on January 1, 2018.

SECTION 4. Chapter 27-41 of the General Laws entitled "Health Maintenance Organizations" is hereby amended by adding thereto the following section:

27-41-86. Access to Abuse-Deterrent Pain Medications.-- (a) Every individual or group health insurance contract, or every individual or group hospital or medical expense insurance policy, plan, or group policy issued for delivery, or renewed in this state on or after the passage of this act that provides coverage for prescription drugs shall not require, as a condition of coverage for pain medication prescribed for chronic pain unrelated to cancer.

(1) Use of an opioid drug that is not approved by the United States Food and Drug Administration (FDA) for the condition being treated prior to the use of a non-opioid drug that is FDA-approved for the condition being treated; or

(2) Use of a non-abuse-deterrent formulation prior to use of an abuse-deterrent

formulation for the treatment of pain.

(b) For the purpose of this section:

(1) "Abuse-deterrent formulation" means a drug used to treat pain that is considered to have abuse-deterrent properties if the FDA determines there is sufficient evidence to support abuse-deterrent claims based on published FDA guidance.

(2) "Chronic pain" means pain of greater than thirty (30) days' duration.

(c) Health insurance contracts, plans or policies to which this section applies may require an insured to use, prior to using a brand name prescription pain medication prescribed by a licensed prescriber, a therapeutically equivalent generic pain medication , unless, pursuant to §§ 5-19.1-19, 5-37-18.1 and 21-31-15(b), the prescriber indicates "brand name necessary" on the prescription form, or if the prescriber gives oral direction to that effect to the dispensing pharmacist, subject to the insured's medication formulary.

(d) Short-acting formulations of pain medication shall not be subject to this section.

(e) The provisions of this section shall expire on January 1, 2018.

SECTION 5. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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RELATING TO INSURANCE - COVERAGE FOR PRESCRIPTION DRUGS

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This act would allow health insurance contracts, plans or policies to require an insured to use, prior to using a brand name prescription pain medication drug prescribed by a licensed prescriber, a therapeutically equivalent generic pain medication drug, unless the prescriber indicates "brand name necessary" on the prescription form, or if the prescriber gives oral direction to that effect to the dispensing pharmacist, subject to the insured’s medication formulary.

This act would take effect upon passage.

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