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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO INSURANCE -- DRUG COVERAGE

Introduced By: Senators Crowley, Sosnowski, Ottiano, Miller, and Nesselbush

Date Introduced: February 26, 2015

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-18-50 of the General Laws in Chapter 27-18 entitled "Accident
2 and Sickness Insurance Policies" is hereby amended to read as follows:

3 **27-18-50. Drug coverage.** -- (a) Any accident and sickness insurer that utilizes a
4 formulary of medications for which coverage is provided under an individual or group plan
5 master contract shall require any physician or other person authorized by the department of health
6 to prescribe medication to prescribe from the formulary. A physician or other person authorized
7 by the department of health to prescribe medication shall be allowed to prescribe medications
8 previously on, or not on, the accident and sickness insurer's formulary if he or she believes that
9 the prescription of the non-formulary medication is medically necessary. An accident and
10 sickness insurer shall be required to provide coverage for a non-formulary medication only when
11 the non-formulary medication meets the accident and sickness insurer's medical exception criteria
12 for the coverage of that medication.

13 (b) An accident and sickness insurer's medical exception criteria for the coverage of non-
14 formulary medications shall be developed in accordance with § 23-17.13-3(c)(3).

15 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this
16 section may appeal the denial in accordance with the rules and regulations promulgated by the
17 department of health pursuant to chapter 17.12 of title 23.

18 (d) Prior to removing a prescription drug from its plan's formulary or making any change
19 in the preferred or tiered cost-sharing status of a covered prescription drug, an accident and

1 sickness insurer must provide at least sixty (60) days' notice to authorized prescribers, network
2 pharmacies, and pharmacists prior to the date such change becomes effective, and must either:

3 (1) Provide direct written notice to affected subscribers at least sixty (60) days prior to
4 the date the change becomes effective; or

5 (2) At the time an affected subscriber requests a refill of the prescription drug, provide
6 such subscriber with a sixty (60) day supply of the prescription drug under the same terms as
7 previously allowed, and written notice of the formulary change:

8 (i) The written notice must contain the following information:

9 (A) The name of the affected prescription drug;

10 (B) Whether the plan is removing the prescription drug from the formulary, or changing
11 its preferred or tiered cost-sharing status;

12 (C) The reason why the plan is removing such prescription drug from the formulary, or
13 changing its preferred or tiered cost-sharing status;

14 (D) Alternative drugs in the same therapeutic category or class or cost-sharing tier and
15 expected cost-sharing for those drugs; and

16 (E) The means by which subscribers may obtain a coverage determination under or
17 exception;

18 (ii) An accident and sickness insurer may immediately remove from their plan
19 formularies covered prescription drugs deemed unsafe by the Food and Drug Administration or
20 removed from the market by their manufacturer without meeting the requirements of this section.

21 Nonprofit dental service corporations must provide retrospective notice of any such formulary
22 changes to affected subscribers, authorized prescribers, network pharmacies, and pharmacists
23 consistent with the requirements of this section.

24 ~~(d)~~(e) This section shall not apply to insurance coverage providing benefits for: (1)
25 hospital confinement indemnity; (2) disability income; (3) accident only; (4) long term care; (5)
26 Medicare supplement; (6) limited benefit health; (7) specified disease indemnity; (8) sickness or
27 bodily injury or death by accident or both; or (9) other limited benefit policies.

28 SECTION 2. Section 27-19-42 of the General Laws in Chapter 27-19 entitled "Nonprofit
29 Hospital Service Corporations" is hereby amended to read as follows:

30 **27-19-42. Drug coverage.** -- (a) Any nonprofit hospital service corporation that utilizes a
31 formulary of medications for which coverage is provided under an individual or group plan
32 master contract shall require any physician or other person authorized by the department of health
33 to prescribe medication to prescribe from the formulary. A physician or other person authorized
34 by the department of health to prescribe medication shall be allowed to prescribe medications

1 previously on, or not on, the nonprofit hospital service corporation's formulary if he or she
2 believes that the prescription of the non-formulary medication is medically necessary. A
3 nonprofit hospital service corporation shall be required to provide coverage for a non-formulary
4 medication only when the non-formulary medication meets the nonprofit hospital service
5 corporation's medical exception criteria for the coverage of that medication.

6 (b) A nonprofit hospital service corporation's medical exception criteria for the coverage
7 of non-formulary medications shall be developed in accordance with § 23-17.13-3(c)(3).

8 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this
9 section may appeal the denial in accordance with the rules and regulations promulgated by the
10 department of health pursuant to chapter 17.12 of title 23.

11 (d) Prior to removing a prescription drug from its plan's formulary or making any change
12 in the preferred or tiered cost-sharing status of a covered prescription drug, an accident and
13 sickness insurer must provide at least sixty (60) days' notice to authorized prescribers, network
14 pharmacies, and pharmacists prior to the date such change becomes effective, and must either:

15 (1) Provide direct written notice to affected subscribers at least sixty (60) days prior to
16 the date the change becomes effective; or

17 (2) At the time an affected subscriber requests a refill of the prescription drug, provide
18 such subscriber with a sixty (60) day supply of the prescription drug under the same terms as
19 previously allowed, and written notice of the formulary change.

20 (i) The written notice must contain the following information:

21 (A) The name of the affected prescription drug;

22 (B) Whether the plan is removing the prescription drug from the formulary, or changing
23 its preferred or tiered cost-sharing status;

24 (C) The reason why the plan is removing such prescription drug from the formulary, or
25 changing its preferred or tiered cost-sharing status;

26 (D) Alternative drugs in the same therapeutic category or class or cost-sharing tier and
27 expected cost-sharing for those drugs; and

28 (E) The means by which subscribers may obtain a coverage determination under or
29 exception;

30 (ii) An accident and sickness insurer may immediately remove from their plan
31 formularies covered prescription drugs deemed unsafe by the Food and Drug Administration or
32 removed from the market by their manufacturer without meeting the requirements of this section.

33 Nonprofit dental service corporations must provide retrospective notice of any such formulary
34 changes to affected subscribers, authorized prescribers, network pharmacies, and pharmacists

1 [consistent with the requirements of this section.](#)

2 SECTION 3. Section 27-20-37 of the General Laws in Chapter 27-20 entitled "Nonprofit
3 Medical Service Corporations" is hereby amended to read as follows:

4 **27-20-37. Drug coverage.** -- (a) Any nonprofit medical service corporation that utilizes a
5 formulary of medications for which coverage is provided under an individual or group plan
6 master contract shall require any physician or other person authorized by the department of health
7 to prescribe medication to prescribe from the formulary. A physician or other person authorized
8 by the department of health to prescribe medication shall be allowed to prescribe medications
9 previously on, or not on, the nonprofit medical service corporation's formulary if he or she
10 believes that the prescription of the non-formulary medication is medically necessary. A
11 nonprofit hospital service corporation shall be required to provide coverage for a non-formulary
12 medication only when the non-formulary medication meets the nonprofit medical service
13 corporation's medical exception criteria for the coverage of that medication.

14 (b) A nonprofit medical service corporation's medical exception criteria for the coverage
15 of non-formulary medications shall be developed in accordance with § 23-17.13-3(c)(3).

16 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this
17 section may appeal the denial in accordance with the rules and regulations promulgated by the
18 department of health pursuant to chapter 17.12 of title 23.

19 [\(d\) Prior to removing a prescription drug from its plan's formulary or making any change](#)
20 [in the preferred or tiered cost-sharing status of a covered prescription drug, an accident and](#)
21 [sickness insurer must provide at least sixty \(60\) days' notice to authorized prescribers, network](#)
22 [pharmacies, and pharmacists prior to the date such change becomes effective, and must either:](#)

23 [\(1\) Provide direct written notice to affected subscribers at least sixty \(60\) days prior to](#)
24 [the date the change becomes effective; or](#)

25 [\(2\) At the time an affected subscriber requests a refill of the prescription drug, provide](#)
26 [such subscriber with a sixty \(60\) day supply of the prescription drug under the same terms as](#)
27 [previously allowed, and written notice of the formulary change:](#)

28 [\(i\) The written notice must contain the following information:](#)

29 [\(A\) The name of the affected prescription drug;](#)

30 [\(B\) Whether the plan is removing the prescription drug from the formulary, or changing](#)
31 [its preferred or tiered cost-sharing status;](#)

32 [\(C\) The reason why the plan is removing such prescription drug from the formulary, or](#)
33 [changing its preferred or tiered cost-sharing status;](#)

34 [\(D\) Alternative drugs in the same therapeutic category or class or cost-sharing tier and](#)

1 expected cost-sharing for those drugs; and

2 (E) The means by which subscribers may obtain a coverage determination under or
3 exception;

4 (ii) An accident and sickness insurer may immediately remove from their plan
5 formularies covered prescription drugs deemed unsafe by the Food and Drug Administration or
6 removed from the market by their manufacturer without meeting the requirements of this section.
7 Nonprofit dental service corporations must provide retrospective notice of any such formulary
8 changes to affected subscribers, authorized prescribers, network pharmacies, and pharmacists
9 consistent with the requirements of this section.

10 SECTION 4. Section 27-20.1-15 of the General Laws in Chapter 27-20.1 entitled
11 "Nonprofit Dental Service Corporations" is hereby amended to read as follows:

12 **27-20.1-15. Drug coverage.** -- (a) Any nonprofit dental service corporation that utilizes a
13 formulary of medications for which coverage is provided under an individual or group plan
14 master contract shall require any physician or other person authorized by the department of health
15 to prescribe medication to prescribe from the formulary. A physician or other person authorized
16 by the department of health to prescribe medication shall be allowed to prescribe medications
17 previously on, or not on, the nonprofit dental service corporation's formulary if he or she believes
18 that the prescription of the non-formulary medication is medically necessary. A nonprofit dental
19 service corporation shall be required to provide coverage for a non-formulary medication only
20 when the non-formulary medication meets the nonprofit dental service corporation's medical
21 exception criteria for the coverage of that medication.

22 (b) A nonprofit dental service corporation's medical exception criteria for the coverage
23 of non-formulary medications shall be developed in accordance with § 23-17.13-3(c)(3).

24 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this
25 section may appeal the denial in accordance with the rules and regulations promulgated by the
26 department of health pursuant to chapter 17.12 of title 23.

27 (d) Prior to removing a prescription drug from its plan's formulary or making any change
28 in the preferred or tiered cost-sharing status of a covered prescription drug, an accident and
29 sickness insurer must provide at least sixty (60) days' notice to authorized prescribers, network
30 pharmacies, and pharmacists prior to the date such change becomes effective, and must either:

31 (1) Provide direct written notice to affected subscribers at least sixty (60) days prior to
32 the date the change becomes effective; or

33 (2) At the time an affected subscriber requests a refill of the prescription drug, provide
34 such subscriber with a sixty (60) day supply of the prescription drug under the same terms as

1 previously allowed, and written notice of the formulary change:

2 (i) The written notice must contain the following information:

3 (A) The name of the affected prescription drug;

4 (B) Whether the plan is removing the prescription drug from the formulary, or changing
5 its preferred or tiered cost-sharing status;

6 (C) The reason why the plan is removing such prescription drug from the formulary, or
7 changing its preferred or tiered cost-sharing status;

8 (D) Alternative drugs in the same therapeutic category or class or cost-sharing tier and
9 expected cost-sharing for those drugs; and

10 (E) The means by which subscribers may obtain a coverage determination under or
11 exception;

12 (ii) An accident and sickness insurer may immediately remove from their plan
13 formularies covered prescription drugs deemed unsafe by the Food and Drug Administration or
14 removed from the market by their manufacturer without meeting the requirements of this section.
15 Nonprofit dental service corporations must provide retrospective notice of any such formulary
16 changes to affected subscribers, authorized prescribers, network pharmacies, and pharmacists
17 consistent with the requirements of this section.

18 SECTION 5. Section 27-41-51 of the General Laws in Chapter 27-41 entitled "Health
19 Maintenance Organizations" is hereby amended to read as follows:

20 **27-41-51. Drug coverage.** -- (a) Any health maintenance organization that utilizes a
21 formulary of medications for which coverage is provided under an individual or group plan
22 master contract shall require any physician or other person authorized by the department of health
23 to prescribe medication to prescribe from the formulary. A physician or other person authorized
24 by the department of health to prescribe medication shall be allowed to prescribe medications
25 previously on, or not on, the health maintenance organization's formulary if he or she believes
26 that the prescription of non-formulary medication is medically necessary. A health maintenance
27 organization shall be required to provide coverage for a non-formulary medication only when the
28 non-formulary medication meets the health maintenance organization's medical exception criteria
29 for the coverage of that medication.

30 (b) A health maintenance organization's medical exception criteria for the coverage of
31 non-formulary medications shall be developed in accordance with § 23-17.13-3(c)(3).

32 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this
33 section may appeal the denial in accordance with the rules and regulations promulgated by the
34 department of health pursuant to chapter 17.12 of title 23.

1 (d) Prior to removing a prescription drug from its plan's formulary or making any change
2 in the preferred or tiered cost-sharing status of a covered prescription drug, an accident and
3 sickness insurer must provide at least sixty (60) days' notice to authorized prescribers, network
4 pharmacies, and pharmacists prior to the date such change becomes effective, and must either:

5 (1) Provide direct written notice to affected subscribers at least sixty (60) days prior to
6 the date the change becomes effective; or

7 (2) At the time an affected subscriber requests a refill of the prescription drug, provide
8 such subscriber with a sixty (60) day supply of the prescription drug under the same terms as
9 previously allowed, and written notice of the formulary change:

10 (i) The written notice must contain the following information:

11 (A) The name of the affected prescription drug;

12 (B) Whether the plan is removing the prescription drug from the formulary, or changing
13 its preferred or tiered cost-sharing status;

14 (C) The reason why the plan is removing such prescription drug from the formulary, or
15 changing its preferred or tiered cost-sharing status;

16 (D) Alternative drugs in the same therapeutic category or class or cost-sharing tier and
17 expected cost-sharing for those drugs; and

18 (E) The means by which subscribers may obtain a coverage determination under or
19 exception;

20 (ii) An accident and sickness insurer may immediately remove from their plan
21 formularies covered prescription drugs deemed unsafe by the Food and Drug Administration or
22 removed from the market by their manufacturer without meeting the requirements of this section.
23 Nonprofit dental service corporations must provide retrospective notice of any such formulary
24 changes to affected subscribers, authorized prescribers, network pharmacies, and pharmacists
25 consistent with the requirements of this section.

26 SECTION 6. This act shall take effect on January 1, 2016.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- DRUG COVERAGE

1 This act would require any health care insurance company to notify authorized
2 prescribers, network pharmacies, and pharmacists at least sixty (60) days' prior to removing a
3 prescription drug from its plan's formulary, or making any change in the preferred or tiered cost-
4 sharing status of a covered prescription drug. Any health care insurer must provide direct written
5 notice to affected subscribers at least sixty (60) days prior to the date the change becomes
6 effective; or at the time an affected subscriber requests a refill of the prescription drug, provide
7 such subscriber with a sixty (60) day supply of the prescription drug under the same terms as
8 previously allowed, and written notice of the formulary change.

9 This act would take effect on January 1, 2016.

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