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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO INSURANCE -- DRUG COVERAGE

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

Date Introduced: February 09, 2016

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 thirty (30) days' notice to authorized prescribers by
2 established communication methods of policy and program updates and by updating available
3 references on web-based publications. All affected members must be provided at least thirty (30)
4 days' notice prior to the date such change becomes effective by a direct notification:

5 (i) The written or electronic notice must contain the following information:

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

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

9 (C) The means by which subscribers may obtain a coverage determination or medical
10 exception, in the case of drugs that will require prior authorization or are formulary exclusions
11 respectively.

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

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

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

22 **27-19-42. Drug coverage.** -- (a) Any nonprofit hospital service corporation that utilizes a
23 formulary of medications for which coverage is provided under an individual or group plan
24 master contract shall require any physician or other person authorized by the department of health
25 to prescribe medication to prescribe from the formulary. A physician or other person authorized
26 by the department of health to prescribe medication shall be allowed to prescribe medications
27 previously on, or not on, the nonprofit hospital service corporation's formulary if he or she
28 believes that the prescription of the non-formulary medication is medically necessary. A
29 nonprofit hospital service corporation shall be required to provide coverage for a non-formulary
30 medication only when the non-formulary medication meets the nonprofit hospital service
31 corporation's medical exception criteria for the coverage of that medication.

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

34 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this

1 section may appeal the denial in accordance with the rules and regulations promulgated by the
2 department of health pursuant to chapter 17.12 of title 23.

3 (d) Prior to removing a prescription drug from its plan's formulary or making any change
4 in the preferred or tiered cost-sharing status of a covered prescription drug, a nonprofit hospital
5 service corporation must provide at least thirty (30) days' notice to authorized prescribers by
6 established communication methods of policy and program updates and by updating available
7 references on web-based publications. All affected members must be provided at least thirty (30)
8 days' notice prior to the date such change becomes effective by a direct notification:

9 (i) The written or electronic notice must contain the following information:

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

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

13 (C) The means by which subscribers may obtain a coverage determination or medical
14 exception, in the case of drugs that will require prior authorization or are formulary exclusions
15 respectively.

16 (ii) A nonprofit hospital service corporation may immediately remove from their plan
17 formularies covered prescription drugs deemed unsafe by the nonprofit hospital service
18 corporation or the Food and Drug Administration, or removed from the market by their
19 manufacturer, without meeting the requirements of this section.

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

22 **27-20-37. Drug coverage.** -- (a) Any nonprofit medical service corporation that utilizes a
23 formulary of medications for which coverage is provided under an individual or group plan
24 master contract shall require any physician or other person authorized by the department of health
25 to prescribe medication to prescribe from the formulary. A physician or other person authorized
26 by the department of health to prescribe medication shall be allowed to prescribe medications
27 previously on, or not on, the nonprofit medical service corporation's formulary if he or she
28 believes that the prescription of the non-formulary medication is medically necessary. A
29 nonprofit hospital service corporation shall be required to provide coverage for a non-formulary
30 medication only when the non-formulary medication meets the nonprofit medical service
31 corporation's medical exception criteria for the coverage of that medication.

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

34 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this

1 section may appeal the denial in accordance with the rules and regulations promulgated by the
2 department of health pursuant to chapter 17.12 of title 23.

3 (d) Prior to removing a prescription drug from its plan's formulary or making any change
4 in the preferred or tiered cost-sharing status of a covered prescription drug, a nonprofit medical
5 service corporation must provide at least thirty (30) days' notice to authorized prescribers by
6 established communication methods of policy and program updates and by updating available
7 references on web-based publications. All affected members must be provided at least thirty (30)
8 days' notice prior to the date such change becomes effective by a direct notification:

9 (i) The written or electronic notice must contain the following information:

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

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

13 (C) The means by which subscribers may obtain a coverage determination or medical
14 exception, in the case of drugs that will require prior authorization or are formulary exclusions
15 respectively.

16 (ii) A nonprofit medical service corporation may immediately remove from their plan
17 formularies covered prescription drugs deemed unsafe by the nonprofit medical service
18 corporation or the Food and Drug Administration, or removed from the market by their
19 manufacturer, without meeting the requirements of this section.

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

22 **27-20.1-15. Drug coverage.** -- (a) Any nonprofit dental service corporation that utilizes a
23 formulary of medications for which coverage is provided under an individual or group plan
24 master contract shall require any physician or other person authorized by the department of health
25 to prescribe medication to prescribe from the formulary. A physician or other person authorized
26 by the department of health to prescribe medication shall be allowed to prescribe medications
27 previously on, or not on, the nonprofit dental service corporation's formulary if he or she believes
28 that the prescription of the non-formulary medication is medically necessary. A nonprofit dental
29 service corporation shall be required to provide coverage for a non-formulary medication only
30 when the non-formulary medication meets the nonprofit dental service corporation's medical
31 exception criteria for the coverage of that medication.

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

34 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this

1 section may appeal the denial in accordance with the rules and regulations promulgated by the
2 department of health pursuant to chapter 17.12 of title 23.

3 (d) Prior to removing a prescription drug from its plan's formulary or making any change
4 in the preferred or tiered cost-sharing status of a covered prescription drug, a nonprofit dental
5 service corporation must provide at least thirty (30) days' notice to authorized prescribers by
6 established communication methods of policy and program updates and by updating available
7 references on web-based publications. All affected members must be provided at least thirty (30)
8 days' notice prior to the date such change becomes effective by a direct notification:

9 (i) The written or electronic notice must contain the following information:

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

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

13 (C) The means by which subscribers may obtain a coverage determination or medical
14 exception, in the case of drugs that will require prior authorization or are formulary exclusions
15 respectively.

16 (ii) A nonprofit dental service corporation may immediately remove from their plan
17 formularies covered prescription drugs deemed unsafe by the nonprofit dental service corporation
18 or the Food and Drug Administration, or removed from the market by their manufacturer, without
19 meeting the requirements of this section.

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

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

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

34 (c) Any subscriber who is aggrieved by a denial of benefits to be provided under this

1 section may appeal the denial in accordance with the rules and regulations promulgated by the
2 department of health pursuant to chapter 17.12 of title 23.

3 (d) Prior to removing a prescription drug from its plan's formulary or making any change
4 in the preferred or tiered cost-sharing status of a covered prescription drug, a health maintenance
5 organization must provide at least thirty (30) days' notice to authorized prescribers by established
6 communication methods of policy and program updates and by updating available references on
7 web-based publications. All affected members must be provided at least thirty (30) days' notice
8 prior to the date such change becomes effective by a direct notification:

9 (i) The written or electronic notice must contain the following information:

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

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

13 (C) The means by which subscribers may obtain a coverage determination or medical
14 exception, in the case of drugs that will require prior authorization or are formulary exclusions
15 respectively.

16 (ii) A health maintenance organization may immediately remove from their plan
17 formularies covered prescription drugs deemed unsafe by the health maintenance organization or
18 the Food and Drug Administration, or removed from the market by their manufacturer, without
19 meeting the requirements of this section.

20 SECTION 6. This act shall take effect on January 1, 2017.

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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 accident and sickness insurers, nonprofit hospital, medical and
2 dental service corporations and health maintenance organizations to give thirty (30) days' notice
3 to authorized prescribers by established communication methods and by updating available
4 references and web-based publications before making any change in preferred or tiered cost
5 sharing status of a covered drug. Any drug deemed unsafe by those entities or by the Food and
6 Drug Administration may be removed immediately without prior notice.

7 This act would take effect on January 1, 2017.

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