

Senate Bill 1570

Sponsored by Senator WINTERS; Senators ATKINSON, FERRIOLI, GEORGE, KRUSE, MORSE, OLSEN, STARR, TELFER, VERGER, WHITSETT, Representative HICKS (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires medical assistance coverage of prescription drugs that are immunosuppressant drugs or drugs for treatment of seizures, cancer, HIV or AIDS.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to payments for prescription drugs; amending ORS 414.325; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 414.325 is amended to read:

5 414.325. (1) As used in this section:

6 (a) "Legend drug" means any drug requiring a prescription by a practitioner, as defined in ORS
7 689.005.

8 (b) "Mental health drug" means a type of legend drug defined by the Oregon Health Authority
9 by rule that includes, but is not limited to:

10 (A) Therapeutic class 7 ataractics-tranquilizers; and

11 (B) Therapeutic class 11 psychostimulants-antidepressants.

12 (c) "Urgent medical condition" means a medical condition that arises suddenly, is not life-
13 threatening and requires prompt treatment to avoid the development of more serious medical prob-
14 lems.

15 (2) The authority shall reimburse the cost of a legend drug prescribed for a recipient of medical
16 assistance only if the legend drug:

17 (a) Is on the drug list of the Practitioner-Managed Prescription Drug Plan adopted under ORS
18 414.334;

19 (b) Is in a therapeutic class of non-sedating antihistamines and nasal inhalers, as defined by the
20 authority by rule, and is prescribed by an allergist for the treatment of:

21 (A) Asthma;

22 (B) Sinusitis;

23 (C) Rhinitis; or

24 (D) Allergies; [*or*]

25 (c) Is prescribed and dispensed under this chapter by a licensed practitioner at a rural health
26 clinic for an urgent medical condition and:

27 (A) There is no pharmacy within 15 miles of the clinic;

28 (B) The prescription is dispensed for a patient outside of the normal business hours of any
29 pharmacy within 15 miles of the clinic; or

30 (C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter[.];

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(d) Is a mental health drug;**

2 **(e) Is a drug indicated for the treatment of seizures, cancer, HIV or AIDS; or**

3 **(f) Is an immunosuppressant drug.**

4 (3) The authority shall pay only for drugs in the generic form unless an exception has been
5 granted by the authority through the prior authorization process adopted by the authority under
6 subsection (4) of this section.

7 (4) Notwithstanding subsection (2) of this section, the authority shall provide reimbursement for
8 a legend drug that does not meet the criteria in subsection (2) of this section if:

9 *[(a) It is a mental health drug.]*

10 *[(b)]* (a) The authority grants approval through a prior authorization process adopted by the
11 authority by rule.

12 *[(c)]* (b) The prescriber contacts the authority requesting prior authorization and the authority
13 or its agent fails to respond to the telephone call or to a prescriber's request made by electronic
14 mail within 24 hours.

15 *[(d)]* (c) After consultation with the authority or its agent, the prescriber, in the prescriber's
16 professional judgment, determines that the drug is medically appropriate.

17 *[(e) The original prescription was written prior to July 28, 2009, or the request is for a refill of a*
18 *prescription for:]*

19 *[(A) The treatment of seizures, cancer, HIV or AIDS; or]*

20 *[(B) An immunosuppressant.]*

21 *[(f)]* (d) It is a drug in a class not evaluated for the Practitioner-Managed Prescription Drug
22 Plan adopted under ORS 414.334.

23 (5) Notwithstanding subsections (1) to (4) of this section, the authority is authorized to:

24 (a) Withhold payment for a legend drug when federal financial participation is not available;

25 (b) Require prior authorization of payment for drugs that the authority has determined should
26 be limited to those conditions generally recognized as appropriate by the medical profession; and

27 (c) Withhold payment for a legend drug that is not a funded health service on the prioritized list
28 of health services established by the Health Evidence Review Commission under ORS 414.720.

29 (6) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization review
30 prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in the pre-
31 ceding six-month period.

32 (7) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a par-
33 ticular brand name drug rather than the generic version of the drug after notifying the pharmacy
34 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is
35 equal to or less than the cost of the generic version of the drug.

36 (8)(a) Within 180 days after the United States patent expires on an immunosuppressant drug
37 used in connection with an organ transplant, the authority shall determine whether the drug is a
38 narrow therapeutic index drug.

39 (b) As used in this subsection, "narrow therapeutic index drug" means a drug that has a narrow
40 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
41 tration or pharmacodynamic monitoring.

42 (9) The authority shall appoint an advisory committee in accordance with ORS 183.333 for any
43 rulemaking conducted pursuant to this section.

44 **SECTION 2. This 2012 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**

1 **on its passage.**

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