



EXPRESS SCRIPTS®

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April 9, 2013

Senator Laurie Monnes Anderson, Chair
Senate Health Committee
900 Court St. NE, Room 453
Salem, OR 97301

Re: Senate Bill 382: Support if Amended
Senate Health Committee: April 9, 2013

Dear Senator Monnes Anderson:

I am writing on behalf of Express Scripts regarding Senate Bill 382 which proposed to require the development of an standardized prior authorization form that is electronically available to providers. Express Scripts administers prescription drug benefits on behalf of our clients – employers, health plans, unions and government health programs — for approximately 109 million Americans. Headquartered in St. Louis, we provide integrated pharmacy benefit management services including pharmacy claims processing, home delivery, specialty benefit management, benefit-design consultation, drug-utilization review, formulary management, medical and drug data analysis services, as well as extensive cost-management and patient-care services.

Express Scripts is part of an e-Prescribing joint venture called Surescripts, which includes the National Community Pharmacists Association, the National Association of Chain Drug Stores, and other PBMs. The nation's largest clinical health network, Surescripts' services facilitate the secure electronic exchange of clinical information between physicians, pharmacies, payers/PBMs, and other healthcare providers. Additionally, Express Scripts is working at the national level through the National Council of Prescription Drug Programs which is in the process of voting on national standards for e-Prescribing. The standards are expected to be adopted in May.

As proposed, we have several concerns with SB 382, which requires the Department of Consumer and Business Services, in consultation with the Oregon Health Authority, to develop a standardized, two-page prior authorization form that is electronically available. It further states that the prior authorization is deemed approved if the insurer fails to respond within two business days. This presents numerous problems and concerns.

Safety Risk

- Prior authorization is used to manage the utilization of drugs that may pose a safety risk, have a high potential for off-label or experimental use, are very high in cost, are prescribed at dosages exceeding the highest FDA-approved dose, etc.
- SB 382 would essentially create a “rubber stamp” for approval as opposed to allowing a meaningful review of medical necessity that protects patients.
- A Federal Trade Commission (FTC) study states: Upon a plan sponsor’s request, “[l]arge PBMs and small or insurer-owned PBMs have used step-therapy and prior authorization programs to *lower prescription drug costs and increase formulary compliance.*” The FTC also determined that “[p]rior authorization often involves a clinical justification for the use of drugs that are prone to misuse or are especially costly.”¹
- Undermining the use of prior authorization will result in inappropriate clinical use of certain drugs, and will fundamentally alter the nature of a benefit plan by essentially mandating coverage without regard to safety and cost factors.

Increases Health Care Costs

- SB 382 significantly benefits brand manufacturers because it would allow for the easy dispensing of expensive brand medications without any consideration for the cost factors involved.
- SB 382 undermines the tools available that help employers design a plan that assures the quality and safety of prescription drugs as well as controls utilization and cost.

Express Scripts recommends that Oregon consider creating a work group to include the state agencies, payers and prescribers to work together to address this issue in a manner which also takes into consideration the national standards due to be adopted in May. We strongly recommend against enacting legislation that predetermines the recommendations of the group, including limiting the form to two pages and requiring payers to approve within two business days.

Thank you for the opportunity to comment on this proposal. Please do not hesitate to contact me should you have any questions.

Sincerely,

CYNTHIA M. LAUBACHER

¹ Federal Trade Commission, “Pharmacy Benefit Managers: Ownership of Mail-Order Pharmacies,” August 2005, available at <http://ftc.gov/reports/index.htm#2005>. [Emphasis added].