

Proposed PhRMA Amendments to Oregon House Bill 2090

1. Preserving Access to Mental Health Treatment

Rationale

It is critical for Oregon's Medicaid beneficiaries to have timely access to a wide range of mental health therapies without burdensome restrictions such as prior authorization requirements, since any disruption in treatment can pose a serious risk of destabilizing the individual's condition. Untreated mental illness also increases the costs to the health care system as a whole, and HB 2090 would eliminate the current protections which ensure that Medicaid beneficiaries who are newly diagnosed with a mental health condition or who require a change of therapy can access the treatments that they need.

Proposed Amendments:

Restore the mental health drug carve-out currently codified in ORS 414.325(4)(a) and delete the proposed language on page 2, line 27 of HB 2090 which merely provides a carve-out for mental health drug refills.

2. Preserving Access to Medically Necessary Treatment

Rationale: HB 2090 would allow the Oregon Health Authority to impose "quantity limits" on prescription drugs. If such limits are not clinically appropriate for an individual, a patient without access to medically necessary care not only may experience needless suffering, but also may cost the Oregon Health Plan more money as a result of complications and increased severity of his or her condition.

Proposed Amendment:

Delete the language on page 2, lines 39–40 of HB 2090.

3. Complying with the Requirements of Federal Medicaid Law

Rationale: The currently codified authority contained in ORS 414.325(5)(c) for the Oregon Health Authority to withhold payment for drugs that are not funded on the Oregon Prioritized List of Health Services is not consistent with the federal Medicaid rebate statute. The federal law requires a state Medicaid program to cover all of a manufacturer's covered outpatient drugs. This section cannot be waived by CMS.

Proposed Amendment:

Delete lines 41–43 on page 2 of HB 2090.

4. Technical Correction

Rationale: HB 2090 requires the Oregon Health Authority to pay only for the generic version of a particular drug, if it is available (unless the Oregon Health Authority has granted an exception through the prior authorization process). The amendment corrects ambiguity of the draft that could be misinterpreted as requiring therapeutic substitution of a generic drug, which is not permissible under federal law.

Proposed Amendment:

Revise lines 14-16 of HB 2090 to read as follows:

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

5. Providing Flexibility to Reconsider Policy in the Future

Rationale: The pace of medical research and innovation is makes it important to periodically revisit restrictions to ensure that they do not unintentionally prevent appropriate treatment of beneficiaries. The proposed amendment would sunset HB 2090’s proposed approach in five years, and would automatically reinstate certain provisions protecting patient access to care in the event that the legislature fails to act before the sunset date.

Proposed Amendments:

Instead of repealing the sunset provision, extend the sunset provision currently scheduled to take effect on January 2, 2014, to January 2, 2018.