

A-Engrossed
House Bill 2090

Ordered by the House April 9
Including House Amendments dated April 9

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Health Authority)

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.

Repeals operative date provision to require Oregon Health Authority to continue to use Practitioner-Managed Prescription Drug Plan for prescription drug coverage in medical assistance program on and after January 2, 2014. [*Requires authority to use plan for mental health drugs subject to specified exception.*]

A BILL FOR AN ACT

1
2 Relating to prescription drug coverage in the medical assistance program; amending ORS 414.325;
3 and repealing section 13, chapter 827, Oregon Laws 2009.

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

5 **SECTION 1.** ORS 414.325, as amended by section 8, chapter 827, Oregon Laws 2009, is amended
6 to read:

7 414.325. (1) As used in this section:

8 (a) "Legend drug" means any drug requiring a prescription by a practitioner, as defined in ORS
9 689.005.

10 **(b) "Mental health drug" means a type of legend drug defined by the Oregon Health Au-**
11 **thority by rule that includes, but is not limited to:**

12 **(A) Therapeutic class 7 ataractics-tranquilizers; and**

13 **(B) Therapeutic class 11 psychostimulants-antidepressants.**

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

17 [(2) *A licensed practitioner may prescribe such drugs under this chapter as the practitioner in the*
18 *exercise of professional judgment considers appropriate for the diagnosis or treatment of the patient in*
19 *the practitioner's care and within the scope of practice. Prescriptions shall be dispensed in the generic*
20 *form pursuant to ORS 689.515 and pursuant to rules of the Oregon Health Authority unless the prac-*
21 *titioner prescribes otherwise and an exception is granted by the authority.*]

22 [(3) *Except as provided in subsections (4) and (5) of this section, the authority shall place no limit*
23 *on the type of legend drug that may be prescribed by a practitioner, but the authority shall pay only*
24 *for drugs in the generic form unless an exception has been granted by the authority.*]

25 [(4) *Notwithstanding subsection (3) of this section, an exception must be applied for and granted*
26 *before the authority is required to pay for minor tranquilizers and amphetamines and amphetamine*

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 *derivatives, as defined by rule of the authority.]*

2 **(2) The Oregon Health Authority shall reimburse the cost of a legend drug prescribed for**
3 **a recipient of medical assistance only if the legend drug:**

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

6 **(b) Is in a therapeutic class of nonседating antihistamines and nasal inhalers, as defined**
7 **by the authority by rule, and is prescribed by an allergist for treatment of:**

8 **(A) Asthma;**

9 **(B) Sinusitis;**

10 **(C) Rhinitis; or**

11 **(D) Allergies; or**

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

14 **(A) There is not a pharmacy within 15 miles of the clinic;**

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

17 **(C) No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.**

18 **(3) The authority shall pay only for drugs in the generic form unless an exception has**
19 **been granted by the authority through the prior authorization process adopted by the au-**
20 **thority under subsection (4) of this section.**

21 **(4) The authority shall reimburse the cost of a legend drug that does not meet the cri-**
22 **teria in subsection (2) of this section if:**

23 **(a) It is a mental health drug;**

24 **(b) The authority grants approval using a prior authorization process adopted by the**
25 **authority by rule;**

26 **(c) The prescriber contacts the authority requesting prior authorization and the author-**
27 **ity or its agent fails to respond within 24 hours to the telephone call or to a prescriber's**
28 **request made through electronic mail;**

29 **(d) After consultation with the authority or the authority's agent, the prescriber, in the**
30 **prescriber's professional judgment, determines that the drug is medically appropriate;**

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

33 **(A) The treatment of seizures, cancer, HIV or AIDS; or**

34 **(B) An immunosuppressant; or**

35 **(f) The drug is in a class not evaluated for the Practitioner-Managed Prescription Drug**
36 **Plan adopted under ORS 414.334.**

37 **(5)[(a)] Notwithstanding subsections (1) to (4) of this section [and except as provided in paragraph**
38 **(b) of this subsection], the authority is authorized to:**

39 **[(A)] (a) Withhold payment for a legend drug when federal financial participation is not avail-**
40 **able; [and]**

41 **[(B)] (b) Require prior authorization of payment for drugs that the authority has determined**
42 **should be limited to those conditions generally recognized as appropriate by the medical**
43 **profession[.]; and**

44 **(c) Withhold payment for a legend drug that is not a funded health service on the prior-**
45 **itized list of health services developed and updated by the Health Evidence Review Commis-**

1 **sion under ORS 414.690.**

2 [(b) *The authority may not require prior authorization for therapeutic classes of nonsedating*
3 *antihistamines and nasal inhalers, as defined by rule by the authority, when prescribed by an allergist*
4 *for treatment of any of the following conditions, as described by the Health Evidence Review Commis-*
5 *sion on the funded portion of its prioritized list of services:]*

6 [(A) *Asthma;*]

7 [(B) *Sinusitis;*]

8 [(C) *Rhinitis; or*]

9 [(D) *Allergies.*]

10 [(6) *The authority shall pay a rural health clinic for a legend drug prescribed and dispensed under*
11 *this chapter by a licensed practitioner at the rural health clinic for an urgent medical condition if:]*

12 [(a) *There is not a pharmacy within 15 miles of the clinic;*]

13 [(b) *The prescription is dispensed for a patient outside of the normal business hours of any phar-*
14 *macy within 15 miles of the clinic; or]*

15 [(c) *No pharmacy within 15 miles of the clinic dispenses legend drugs under this chapter.*]

16 [(7)] (6) Notwithstanding ORS 414.334, the authority may conduct prospective drug utilization
17 review prior to payment for drugs for a patient whose prescription drug use exceeded 15 drugs in
18 the preceding six-month period.

19 [(8)] (7) Notwithstanding subsection (3) of this section, the authority may pay a pharmacy for a
20 particular brand name drug rather than the generic version of the drug after notifying the pharmacy
21 that the cost of the particular brand name drug, after receiving discounted prices and rebates, is
22 equal to or less than the cost of the generic version of the drug.

23 [(9)(a)] (8)(a) Within 180 days after the United States patent expires on an immunosuppressant
24 drug used in connection with an organ transplant, the authority shall determine whether the drug
25 is a narrow therapeutic index drug.

26 (b) As used in this subsection, “narrow therapeutic index drug” means a drug that has a narrow
27 range in blood concentrations between efficacy and toxicity and requires therapeutic drug concen-
28 tration or pharmacodynamic monitoring.

29 (9) **The authority shall appoint an advisory committee in accordance with ORS 183.333 for**
30 **any rulemaking conducted to carry out this section.**

31 **SECTION 2. Section 13, chapter 827, Oregon Laws 2009, is repealed.**

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