

AB 1826 – ACCESS TO PAIN MEDICATIONS

Assemblymember Jared Huffman

IN BRIEF

Prohibits a health plan from using step therapy when a physician prescribes pain medication to their patients.

THE ISSUE

Pain is a growing national public health crisis that affects an estimated 76 million people and has serious economic ramifications. Chronic pain affects more Americans than diabetes, heart disease, and cancer combined. A troubling and dangerous trend occurring with health plans is frequent denial of coverage to policyholders for proven and effective pain treatments. Used as a cost-saving measure for the insurer, many health plans utilize step therapy or "fail first" policies which require a pain patient to try an alternative medication, which in some cases include over-the-counter medications, before the medication recommended by the physician is approved. Some patients are required to try up to five different medicines before receiving the one prescribed by their physician, and oftentimes the alternative drugs have a completely different molecular structure that can harm patients. Not only is this policy extremely dangerous to patient health, step therapy can actually increase the direct cost of healthcare in the long run due to increased emergency room visits, unplanned doctor's visits, and other health complications. Indirect costs include lost wages and productivity of both people with pain and their caregivers. According to a 2006 survey by the National Center for Health Statistics, the annual cost of chronic pain in the U.S., including health care expenses, lost income, and lost productivity, is about \$100 billion.

EXISTING LAW

Requires any health plan that covers prescription drug benefits to provide specified coverage to its subscribers.

BACKGROUND

According to the National Center for Health Statistics (NCHS), many people who suffer from chronic pain endure significant distress in finding appropriate treatment for their pain. Once an effective course of therapy for their pain is found, there is often a limitation placed by insurers on the patient's ability to access this treatment. These alternative treatments are often changed by the insurer without full knowledge of the patient's case and possible other conditions and/or drug interactions that may have factored into the physician's choice of medicine.

Findings from a recent study published in the February 2009 issue of the American Journal of Managed Care suggest that step therapy programs may increase overall health care costs for employers. In the study, researchers analyzed insurance claims data from 2003 through 2006 for 11,851 people with employer-sponsored health coverage that incorporated a step therapy protocol for anti-hypertensive drugs and compared their use of health care services to a group of 30,882 anti-hypertensive drug users who did not participate in a step therapy program. What the researchers found was that the group of patients treated for hypertension under the step therapy program had 3.1% lower drug costs. But these savings were wiped out by the increase in hospital admissions and emergency room visits.

According to a 2009 report from the California Legislative Task Force of Peripheral Neuropathy, "Peripheral neuropathy is one of the most common diseases affecting more than 20 million Americans. Individuals affected by neuropathic pain are oftentimes high users of the health care system as they search for relief from persistent suffering. Neuropathy patients are finding it difficult to access appropriate oral medications due to cost-saving measures by health plans. Step therapy, or "fail first" policies, are used by health plans to help control costs. Some plans require neuropathy patients to try up to five different medicines before they have access to the one their provider determined was best for them. By the time the

patient cycles through the two to four medications to get to the one that works, the patient is angry and the provider has spent hours of his/her time, resulting in the actual costs of care being higher than just approving the right drug initially. Requiring patients to “fail first” may cause unnecessary delays in access, and compromises patient care. Given that patients who suffer from peripheral neuropathy experience significant pain and are high users of the healthcare system, it is increasingly important that patients are diagnosed and treated sooner in order to control costs.” The Task Force Recommendations include that the Legislature “pass legislation that would prohibit health plans or insurers from requiring patients to use a different medication than the one prescribed by the physician/provider. The legislation should prevent the practice of step therapy or “fail first.”

At the Federal level, the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) issued their 2010 Call Letter which limits step therapy by health plans for Medicare patients. Their regulations:

- prohibit plans from requiring a patient to fail first on an off-label drug (not approved by the FDA) before providing access to a drug approved by the FDA for that condition.
- limit step therapy to two trials and failures of formulary alternatives before providing access to the prescribed medicine.

THE BILL

This bill will prohibit a health plan covering prescription drug benefits from requiring a patient who has been prescribed a medication for the treatment of pain by his or her health care provider to use an alternative prescription or over-the-counter product before authorizing coverage of the prescribed prescription.

The bill addresses the problems specifically related to pain patients in that patients with pain understand almost immediately if a medication is or is not successful.

AUTHOR’S STATEMENT

It is essential that patients receive the drug treatment prescribed by their physicians and do not suffer the needless consequences caused by step therapy. As a matter of health policy, we cannot afford to have bureaucrats or health insurance executives deciding which drugs patients should be allowed to receive in the management of their pain. Those decisions are best left to the patient’s physician, who is in a better position of knowing the patient’s medical history and specific needs. AB 1826 would bring California one step closer to changing practices that have resulted in higher health long-term care costs and patients being denied the best treatment possible for their pain.

SUPPORT

For Grace (Sponsor)

FOR MORE INFORMATION

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