ASSEMBLY, No. 1833

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:
Assemblyman HERB CONAWAY, JR.
District 7 (Burlington)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)
Assemblywoman NANCY J. PINKIN
District 18 (Middlesex)
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District 35 (Bergen and Passaic)

Co-Sponsored by:
Assemblywoman Jimenez

SYNOPSIS
Mandates health benefits coverage for opioid analgesics with abuse-deterrent properties.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning health benefits coverage for opioid analgesics
with abuse-deterrent properties and supplementing various parts
of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. A hospital service corporation contract that provides
hospital or medical expense benefits and is delivered, issued,
executed or renewed in this State, or approved for issuance or
renewal in this State by the Commissioner of Banking and
Insurance, on or after the effective date of this act, shall provide
coverage on its formulary, drug list, or other lists of similar
construct for at least one prescribed abuse-deterrent opioid
analgesic drug product per opioid analgesic active ingredient,
subject to the following requirements:

(1) Cost sharing for brand name abuse-deterrent opioid
analgesic drug products covered pursuant to this subsection shall
not exceed the lowest cost sharing level applied to brand name non-
abuse deterrent opioid drugs covered under the applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic
drug products covered pursuant to this subsection shall not exceed
the lowest cost sharing level applied to generic non-abuse deterrent
opioid drugs covered under the applicable contract;

(3) An increase in patient cost sharing or disincentives for a
prescriber or dispenser shall not be allowed to achieve compliance
with this section; and

(4) Any prior authorization requirements or other utilization
review measures for opioid analgesic drugs, and any service denials
made pursuant thereto, shall not require first use of non-abuse-
deterrent opioid analgesic drugs in order to access opioid analgesic
drugs with abuse-deterrent properties. Nothing in this subsection
shall be construed to prevent the application of prior authorization
requirements to abuse-deterrent opioid analgesic drugs, provided
that those requirements are also applied to non-abuse-deterrent
versions of that opioid.

b. The provisions of this section shall apply to all hospital
service corporation contracts in which the hospital service
corporation has reserved the right to change the premium.

c. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or
generic opioid analgesic drug approved by the United States Food
and Drug Administration with abuse-deterrence labeling claims
indicating its abuse-deterrent properties are expected to deter or
reduce its abuse.

“Cost sharing” means any coverage limit, copayment,
coinsurance, deductible, or other out-of-pocket expense
requirements.
“Opioid analgesic drug” means a drug in the opioid analgesic
drug class prescribed to treat moderate to severe pain or other
conditions, whether in immediate release or extended release form,
and whether or not combined with other drug substances to form a
single drug product or other dosage form.

2. a. A medical service corporation contract that provides
hospital or medical expense benefits and is delivered, issued,
executed or renewed in this State, or approved for issuance or
renewal in this State by the Commissioner of Banking and
Insurance, on or after the effective date of this act, shall provide
coverage on its formulary, drug list, or other lists of similar
construct for at least one prescribed abuse-deterrent opioid
analgesic drug product per opioid analgesic active ingredient,
subject to the following requirements:

   (1) Cost sharing for brand name abuse-deterrent opioid
analgesic drug products covered pursuant to this subsection shall
not exceed the lowest cost sharing level applied to brand name non-
abuse deterrent opioid drugs covered under the applicable contract;

   (2) Cost sharing for generic abuse deterrent opioid analgesic
drug products covered pursuant to this subsection shall not exceed
the lowest cost sharing level applied to generic non-abuse deterrent
opioid drugs covered under the applicable contract;

   (3) An increase in patient cost sharing or disincentives for a
prescriber or dispenser shall not be allowed to achieve compliance
with this section; and

   (4) Any prior authorization requirements or other utilization
review measures for opioid analgesic drugs, and any service denials
made pursuant thereto, shall not require first use of non-abuse-
deterrent opioid analgesic drugs in order to access opioid analgesic
drugs with abuse-deterrent properties. Nothing in this subsection
shall be construed to prevent the application of prior authorization
requirements to abuse-deterrent opioid analgesic drugs, provided
that those requirements are also applied to non-abuse-deterrent
versions of that opioid.

b. The provisions of this section shall apply to all medical
service corporation contracts in which the medical service
corporation has reserved the right to change the premium.

c. As used in this section:

   “Abuse-deterrent opioid analgesic drug” means a brand or
generic opioid analgesic drug approved by the United States Food
and Drug Administration with abuse-deterrence labeling claims
indicating its abuse-deterrent properties are expected to deter or
reduce its abuse.

   “Cost sharing” means any coverage limit, copayment,
coinsurance, deductible, or other out-of-pocket expense
requirements.
“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form, and whether or not combined with other drug substances to form a single drug product or other dosage form.

3. a. A health service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

   (1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

   (2) Cost sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

   (3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

   (4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to all health service corporation contracts in which the health service corporation has reserved the right to change the premium.

c. As used in this section:

   “Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

   “Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.
“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form, and whether or not combined with other drug substances to form a single drug product or other dosage form.

4. a. An individual health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

1. Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;
2. Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;
3. An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and
4. Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to those policies in which the insurer has reserved the right to change the premium.

c. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

“Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other
5. a. A group health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

   (1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

   (2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

   (3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

   (4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to those policies in which the insurer has reserved the right to change the premium.

c. As used in this section:

   “Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

   “Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

   “Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form,
and whether or not combined with other drug substances to form a single drug product or other dosage form.

6. a. An individual health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

(1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

(3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

(4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

c. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

“Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form,
and whether or not combined with other drug substances to form a single drug product or other dosage form.

7. a. A small employer health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

(1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

(3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

(4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to all small employer health benefits plans in which the carrier has reserved the right to change the premium.

c. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

“Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form,
and whether or not combined with other drug substances to form a single drug product or other dosage form.

8. a. A health maintenance organization contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

   (1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

   (2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

   (3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

   (4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. The provisions of this section shall apply to those contracts by health maintenance organizations in which the health maintenance organization has reserved the right to change the premium.

c. As used in this section:

   “Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

   “Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

   “Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form,
9. a. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

(1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

(3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

(4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

“Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form, and whether or not combined with other drug substances to form a single drug product or other dosage form.

10. a. The School Employees’ Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical...
expense benefits shall provide coverage on its formulary, drug list, or other lists of similar construct for at least one prescribed abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient, subject to the following requirements:

(1) Cost sharing for brand name abuse-deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to brand name non-abuse deterrent opioid drugs covered under the applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic drug products covered pursuant to this subsection shall not exceed the lowest cost sharing level applied to generic non-abuse deterrent opioid drugs covered under the applicable contract;

(3) An increase in patient cost sharing or disincentives for a prescriber or dispenser shall not be allowed to achieve compliance with this section; and

(4) Any prior authorization requirements or other utilization review measures for opioid analgesic drugs, and any service denials made pursuant thereto, shall not require first use of non-abuse-deterrent opioid analgesic drugs in order to access opioid analgesic drugs with abuse-deterrent properties. Nothing in this subsection shall be construed to prevent the application of prior authorization requirements to abuse-deterrent opioid analgesic drugs, provided that those requirements are also applied to non-abuse-deterrent versions of that opioid.

b. As used in this section:

“Abuse-deterrent opioid analgesic drug” means a brand or generic opioid analgesic drug approved by the United States Food and Drug Administration with abuse-deterrence labeling claims indicating its abuse-deterrent properties are expected to deter or reduce its abuse.

“Cost sharing” means any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements.

“Opioid analgesic drug” means a drug in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release form, and whether or not combined with other drug substances to form a single drug product or other dosage form.

11. This act shall take effect on the 90th day after enactment.

STATEMENT

This bill requires health insurers to provide health benefits coverage for prescribed abuse-deterrent opioid analgesic drugs. Opioid analgesic drugs are drugs prescribed to treat moderate to severe pain or other conditions. Abuse-deterrent opioid analgesic drugs are a
brand or generic opioid analgesic drug approved by the United States
Food and Drug Administration with abuse-deterrence labeling claims
indicating its abuse-deterrent properties are expected to deter or reduce
its abuse.

The bill requires health insurers to provide coverage on the
insurer’s formulary, drug list, or other lists of similar construct, for at
least one prescribed abuse-deterrent opioid analgesic drug product per
opioid analgesic active ingredient, subject to the following:

(1) Cost sharing for brand name abuse-deterrent opioid analgesic
drug products shall not exceed the lowest cost sharing level applied to
brand name non-abuse deterrent opioid drugs covered under the
applicable contract;

(2) Cost sharing for generic abuse deterrent opioid analgesic drug
products shall not exceed the lowest cost sharing level applied to
generic non-abuse deterrent opioid drugs covered under the applicable
contract;

(3) An increase in patient cost sharing or disincentives for a
prescriber or dispenser shall not be allowed to achieve compliance
with the bill’s provisions; and

(4) Any prior authorization requirements or other utilization
review measures for opioid analgesic drugs, and any service denials
made pursuant thereto, shall not require first use of non-abuse-
deterrent opioid analgesic drugs in order to access opioid analgesic
drugs with abuse-deterrent properties.

The bill applies to health, hospital and medical service
corporations; commercial individual and group health insurers; health
maintenance organizations; health benefits plans issued pursuant to the
New Jersey Individual Health Coverage and Small Employer Health
Benefits Programs; the State Health Benefits Program; and the School
Employees’ Health Benefits Program.