

SENATE, No. 492

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator JAMES BEACH

District 6 (Burlington and Camden)

Co-Sponsored by:

Senators Diegnan and Gopal

SYNOPSIS

Requires continued coverage of prescription drugs for certain medical conditions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/26/2018)

1 **AN ACT** concerning prescription drug coverage for certain medical
2 conditions and supplementing various parts of the statutory law.

3

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

6

7 1. a. As used in this section:

8 “Complex or chronic medical condition” means a physical,
9 behavioral, or developmental condition that does not have a known
10 cure or that can be severely debilitating or fatal if left untreated or
11 undertreated.

12 “Rare disease” means any disease or condition that affects less
13 than 200,000 persons in the United States.

14 b. Every group or individual hospital service corporation
15 contract delivered, issued, executed or renewed in this State, or
16 approved for issuance or renewal in this State, on or after the
17 effective date of this act, which provides for pharmacy services,
18 prescription drugs, or for participation in a prescription drug plan
19 shall continue to cover a drug for a covered person with a complex
20 or chronic medical condition or a rare disease if:

21 (1) the drug was previously covered by the contract for a
22 medical condition or disease of the covered person; and

23 (2) the prescribing provider continues to prescribe the drug for
24 the medical condition or disease, provided that the drug is
25 appropriately prescribed and neither of the following has occurred:

26 (a) the United States Food and Drug Administration has issued a
27 notice, guidance, warning, announcement, or any other statement
28 about the drug which calls into question the clinical safety of the
29 drug; or

30 (b) the manufacturer of the drug has notified the United States
31 Food and Drug Administration of any manufacturing
32 discontinuance or potential discontinuance as required by 21 U.S.C.
33 s.356c.

34 c. With respect to a drug for a covered person with a complex
35 or chronic medical condition or a rare disease which meets the
36 conditions of subsection b. of this section, except during open
37 enrollment periods, a group or individual hospital service
38 corporation contract shall not:

39 (1) set forth limitations on maximum coverage of prescription
40 drug benefits;

41 (2) subject the covered person to increased out-of-pocket costs;
42 or

43 (3) move a drug for a covered person to a more restrictive tier, if
44 the group or individual hospital service corporation uses a
45 formulary with tiers.

46

47 2. a. As used in this section:

1 “Complex or chronic medical condition” means a physical,
2 behavioral, or developmental condition that does not have a known
3 cure or that can be severely debilitating or fatal if left untreated or
4 undertreated.

5 “Rare disease” means any disease or condition that affects less
6 than 200,000 persons in the United States.

7 b. Every group or individual medical service corporation
8 contract delivered, issued, executed or renewed in this State, or
9 approved for issuance or renewal in this State, on or after the
10 effective date of this act, which provides for pharmacy services,
11 prescription drugs, or for participation in a prescription drug plan
12 shall continue to cover a drug for a covered person with a complex
13 or chronic medical condition or a rare disease if:

14 (1) the drug was previously covered by the contract for a
15 medical condition or disease of the covered person; and

16 (2) the prescribing provider continues to prescribe the drug for
17 the medical condition or disease, provided that the drug is
18 appropriately prescribed and neither of the following has occurred:

19 (a) the United States Food and Drug Administration has issued a
20 notice, guidance, warning, announcement, or any other statement
21 about the drug which calls into question the clinical safety of the
22 drug; or

23 (b) the manufacturer of the drug has notified the United States
24 Food and Drug Administration of any manufacturing
25 discontinuance or potential discontinuance as required by 21 U.S.C.
26 s.356c.

27 c. With respect to a drug for a covered person with a complex
28 or chronic medical condition or a rare disease which meets the
29 conditions of subsection b. of this section, except during open
30 enrollment periods, a group or individual medical service
31 corporation contract shall not:

32 (1) set forth limitations on maximum coverage of prescription
33 drug benefits;

34 (2) subject the covered person to increased out-of-pocket costs;
35 or

36 (3) move a drug for a covered person to a more restrictive tier, if
37 the group or individual medical service corporation uses a
38 formulary with tiers.

39

40 3. a. As used in this section:

41 “Complex or chronic medical condition” means a physical,
42 behavioral, or developmental condition that does not have a known
43 cure or that can be severely debilitating or fatal if left untreated or
44 undertreated.

45 “Rare disease” means any disease or condition that affects less
46 than 200,000 persons in the United States.

47 b. Every group or individual health service corporation contract
48 delivered, issued, executed or renewed in this State, or approved for

1 issuance or renewal in this State, on or after the effective date of
2 this act, which provides for pharmacy services, prescription drugs,
3 or for participation in a prescription drug plan shall continue to
4 cover a drug for a covered person with a complex or chronic
5 medical condition or a rare disease if:

6 (1) the drug was previously covered by the contract for a
7 medical condition or disease of the covered person; and

8 (2) the prescribing provider continues to prescribe the drug for
9 the medical condition or disease, provided that the drug is
10 appropriately prescribed and neither of the following has occurred:

11 (a) the United States Food and Drug Administration has issued a
12 notice, guidance, warning, announcement, or any other statement
13 about the drug which calls into question the clinical safety of the
14 drug; or

15 (b) the manufacturer of the drug has notified the United States
16 Food and Drug Administration of any manufacturing
17 discontinuance or potential discontinuance as required by 21 U.S.C.
18 s.356c.

19 c. With respect to a drug for a covered person with a complex
20 or chronic medical condition or a rare disease which meets the
21 conditions of subsection b. of this section, except during open
22 enrollment periods, a group or individual health service corporation
23 contract shall not:

24 (1) set forth limitations on maximum coverage of prescription
25 drug benefits;

26 (2) subject the covered person to increased out-of-pocket costs;
27 or

28 (3) move a drug for a covered person to a more restrictive tier, if
29 the group or individual health service corporation uses a formulary
30 with tiers.

31
32 4. a. As used in this section:

33 "Complex or chronic medical condition" means a physical,
34 behavioral, or developmental condition that does not have a known
35 cure or that can be severely debilitating or fatal if left untreated or
36 undertreated.

37 "Rare disease" means any disease or condition that affects less
38 than 200,000 persons in the United States.

39 b. Every individual health insurance policy or contract
40 delivered, issued, executed or renewed in this State, or approved for
41 issuance or renewal in this State, on or after the effective date of
42 this act, which provides for pharmacy services, prescription drugs,
43 or for participation in a prescription drug plan shall continue to
44 cover a drug for a covered person with a complex or chronic
45 medical condition or a rare disease if:

46 (1) the drug was previously covered by the policy or contract for
47 a medical condition or disease of the covered person; and

1 (2) the prescribing provider continues to prescribe the drug for
2 the medical condition or disease, provided that the drug is
3 appropriately prescribed and neither of the following has occurred:

4 (a) the United States Food and Drug Administration has issued a
5 notice, guidance, warning, announcement, or any other statement
6 about the drug which calls into question the clinical safety of the
7 drug; or

8 (b) the manufacturer of the drug has notified the United States
9 Food and Drug Administration of any manufacturing
10 discontinuance or potential discontinuance as required by 21 U.S.C.
11 s.356c.

12 c. With respect to a drug for a covered person with a complex
13 or chronic medical condition or a rare disease which meets the
14 conditions of subsection b. of this section, except during open
15 enrollment periods, an individual health insurance policy or
16 contract shall not:

17 (1) set forth limitations on maximum coverage of prescription
18 drug benefits;

19 (2) subject the covered person to increased out-of-pocket costs;
20 or

21 (3) move a drug for a covered person to a more restrictive tier, if
22 the individual health insurance policy or contract uses a formulary
23 with tiers.

24
25 5. a. As used in this section:

26 “Complex or chronic medical condition” means a physical,
27 behavioral, or developmental condition that does not have a known
28 cure or that can be severely debilitating or fatal if left untreated or
29 undertreated.

30 “Rare disease” means any disease or condition that affects less
31 than 200,000 persons in the United States.

32 b. Every group health insurance policy or contract delivered,
33 issued, executed or renewed in this State, or approved for issuance
34 or renewal in this State, on or after the effective date of this act,
35 which provides for pharmacy services, prescription drugs, or for
36 participation in a prescription drug plan shall continue to cover a
37 drug for a covered person with a complex or chronic medical
38 condition or a rare disease if:

39 (1) the drug was previously covered by the policy or contract for
40 a medical condition or disease of the covered person; and

41 (2) the prescribing provider continues to prescribe the drug for
42 the medical condition or disease, provided that the drug is
43 appropriately prescribed and neither of the following has occurred:

44 (a) the United States Food and Drug Administration has issued a
45 notice, guidance, warning, announcement, or any other statement
46 about the drug which calls into question the clinical safety of the
47 drug; or

1 (b) the manufacturer of the drug has notified the United States
2 Food and Drug Administration of any manufacturing
3 discontinuance or potential discontinuance as required by 21 U.S.C.
4 s.356c.

5 c. With respect to a drug for a covered person with a complex
6 or chronic medical condition or a rare disease which meets the
7 conditions of subsection b. of this section, except during open
8 enrollment periods, a group health insurance policy or contract shall
9 not:

10 (1) set forth limitations on maximum coverage of prescription
11 drug benefits;

12 (2) subject the covered person to increased out-of-pocket costs;
13 or

14 (3) move a drug for a covered person to a more restrictive tier, if
15 the group health insurance policy or contract uses a formulary with
16 tiers.

17

18 6. a. As used in this section:

19 “Complex or chronic medical condition” means a physical,
20 behavioral, or developmental condition that does not have a known
21 cure or that can be severely debilitating or fatal if left untreated or
22 undertreated.

23 “Rare disease” means any disease or condition that affects less
24 than 200,000 persons in the United States.

25 b. Every certificate of authority to establish and operate a
26 health maintenance organization issued, continued or renewed in
27 this State, or approved for issuance or renewal in this State, on or
28 after the effective date of this act, which provides for pharmacy
29 services, prescription drugs, or for participation in a prescription
30 drug plan shall continue to cover a drug for a covered person with a
31 complex or chronic medical condition or a rare disease if:

32 (1) the drug was previously covered by the enrollee agreement
33 for a medical condition or disease of the covered person; and

34 (2) the prescribing provider continues to prescribe the drug for
35 the medical condition or disease, provided that the drug is
36 appropriately prescribed and neither of the following has occurred:

37 (a) the United States Food and Drug Administration has issued a
38 notice, guidance, warning, announcement, or any other statement
39 about the drug which calls into question the clinical safety of the
40 drug; or

41 (b) the manufacturer of the drug has notified the United States
42 Food and Drug Administration of any manufacturing
43 discontinuance or potential discontinuance as required by 21 U.S.C.
44 s.356c.

45 c. With respect to a drug for a covered person with a complex
46 or chronic medical condition or a rare disease which meets the
47 conditions of subsection b. of this section, except during open
48 enrollment periods, an enrollee agreement shall not:

1 (1) set forth limitations on maximum coverage of prescription
2 drug benefits;

3 (2) subject the covered person to increased out-of-pocket costs;
4 or

5 (3) move a drug for a covered person to a more restrictive tier, if
6 the enrollee agreement uses a formulary with tiers.

7

8 7. a. As used in this section:

9 “Complex or chronic medical condition” means a physical,
10 behavioral, or developmental condition that does not have a known
11 cure or that can be severely debilitating or fatal if left untreated or
12 undertreated.

13 “Rare disease” means any disease or condition that affects less
14 than 200,000 persons in the United States.

15 b. Every individual health benefits plan delivered, issued,
16 executed or renewed in this State, or approved for issuance or
17 renewal in this State, on or after the effective date of this act, which
18 provides for pharmacy services, prescription drugs, or for
19 participation in a prescription drug plan shall continue to cover a
20 drug for a covered person with a complex or chronic medical
21 condition or a rare disease if:

22 (1) the drug was previously covered by the plan for a medical
23 condition or disease of the covered person; and

24 (2) the prescribing provider continues to prescribe the drug for
25 the medical condition or disease, provided that the drug is
26 appropriately prescribed and neither of the following has occurred:

27 (a) the United States Food and Drug Administration has issued a
28 notice, guidance, warning, announcement, or any other statement
29 about the drug which calls into question the clinical safety of the
30 drug; or

31 (b) the manufacturer of the drug has notified the United States
32 Food and Drug Administration of any manufacturing
33 discontinuance or potential discontinuance as required by 21 U.S.C.
34 s.356c.

35 c. With respect to a drug for a covered person with a complex
36 or chronic medical condition or a rare disease which meets the
37 conditions of subsection b. of this section, except during open
38 enrollment periods, an individual health benefits plan shall not:

39 (1) set forth limitations on maximum coverage of prescription
40 drug benefits;

41 (2) subject the covered person to increased out-of-pocket costs;
42 or

43 (3) move a drug for a covered person to a more restrictive tier, if
44 the individual health benefits plan uses a formulary with tiers.

45

46 8. a. As used in this section:

47 “Complex or chronic medical condition” means a physical,
48 behavioral, or developmental condition that does not have a known

1 cure or that can be severely debilitating or fatal if left untreated or
2 undertreated.

3 “Rare disease” means any disease or condition that affects less
4 than 200,000 persons in the United States.

5 b. Every small employer health benefits plan delivered, issued,
6 executed or renewed in this State, or approved for issuance or
7 renewal in this State, on or after the effective date of this act, which
8 provides for pharmacy services, prescription drugs, or for
9 participation in a prescription drug plan shall continue to cover a
10 drug for a covered person with a complex or chronic medical
11 condition or a rare disease if:

12 (1) the drug was previously covered by the plan for a medical
13 condition or disease of the covered person; and

14 (2) the prescribing provider continues to prescribe the drug for
15 the medical condition or disease, provided that the drug is
16 appropriately prescribed and neither of the following has occurred:

17 (a) the United States Food and Drug Administration has issued a
18 notice, guidance, warning, announcement, or any other statement
19 about the drug which calls into question the clinical safety of the
20 drug; or

21 (b) the manufacturer of the drug has notified the United States
22 Food and Drug Administration of any manufacturing
23 discontinuance or potential discontinuance as required by 21 U.S.C.
24 s.356c.

25 c. With respect to a drug for a covered person with a complex
26 or chronic medical condition or a rare disease which meets the
27 conditions of subsection b. of this section, except during open
28 enrollment periods, a small employer health benefits plan shall not:

29 (1) set forth limitations on maximum coverage of prescription
30 drug benefits;

31 (2) subject the covered person to increased out-of-pocket costs;
32 or

33 (3) move a drug for a covered person to a more restrictive tier, if
34 the small employer health benefits plan uses a formulary with tiers.

35
36 9. a. As used in this section:

37 “Complex or chronic medical condition” means a physical,
38 behavioral, or developmental condition that does not have a known
39 cure or that can be severely debilitating or fatal if left untreated or
40 undertreated.

41 “Rare disease” means any disease or condition that affects less
42 than 200,000 persons in the United States.

43 b. Every prepaid prescription service organization contract
44 delivered, issued, executed or renewed in this State, or approved for
45 issuance or renewal in this State, on or after the effective date of
46 this act, shall continue to cover a drug for a covered person with a
47 complex or chronic medical condition or a rare disease if:

- 1 (1) the drug was previously covered by the contract for a
2 medical condition or disease of the covered person; and
- 3 (2) the prescribing provider continues to prescribe the drug for
4 the medical condition or disease, provided that the drug is
5 appropriately prescribed and neither of the following has occurred:
- 6 (a) the United States Food and Drug Administration has issued a
7 notice, guidance, warning, announcement, or any other statement
8 about the drug which calls into question the clinical safety of the
9 drug; or
- 10 (b) the manufacturer of the drug has notified the United States
11 Food and Drug Administration of any manufacturing
12 discontinuance or potential discontinuance as required by 21 U.S.C.
13 s.356c.
- 14 c. With respect to a drug for a covered person with a complex
15 or chronic medical condition or a rare disease which meets the
16 conditions of subsection b. of this section, except during open
17 enrollment periods, the prepaid prescription contract shall not:
- 18 (1) set forth limitations on maximum coverage of prescription
19 drug benefits;
- 20 (2) subject the covered person to increased out-of-pocket costs;
- 21 or
- 22 (3) move a drug for a covered person to a more restrictive tier, if
23 the prepaid prescription service organization uses a formulary with
24 tiers.
- 25
- 26 10. a. As used in this section:
- 27 “Complex or chronic medical condition” means a physical,
28 behavioral, or developmental condition that does not have a known
29 cure or that can be severely debilitating or fatal if left untreated or
30 undertreated.
- 31 “Rare disease” means any disease or condition that affects less
32 than 200,000 persons in the United States.
- 33 b. The State Health Benefits Commission shall ensure that
34 every contract purchased by the State Health Benefits Program on
35 or after the effective date of this act, which provides for pharmacy
36 services, prescription drugs, or for participation in a prescription
37 drug plan shall continue to cover a drug for a covered person with a
38 complex or chronic medical condition or a rare disease if:
- 39 (1) the drug was previously covered by the contract for a
40 medical condition or disease of the covered person; and
- 41 (2) the prescribing provider continues to prescribe the drug for
42 the medical condition or disease, provided that the drug is
43 appropriately prescribed and neither of the following has occurred:
- 44 (a) the United States Food and Drug Administration has issued a
45 notice, guidance, warning, announcement, or any other statement
46 about the drug which calls into question the clinical safety of the
47 drug; or

1 (b) the manufacturer of the drug has notified the United States
2 Food and Drug Administration of any manufacturing
3 discontinuance or potential discontinuance as required by 21 U.S.C.
4 s.356c.

5 c. With respect to a drug for a covered person with a complex
6 or chronic medical condition or a rare disease which meets the
7 conditions of subsection b. of this section, except during open
8 enrollment periods, the State Health Benefits Program shall not:

9 (1) set forth limitations on maximum coverage of prescription
10 drug benefits;

11 (2) subject the covered person to increased out-of-pocket costs;
12 or

13 (3) move a drug for a covered person to a more restrictive tier, if
14 the State Health Benefits Program uses a formulary with tiers.

15
16 11. a. As used in this section:

17 “Complex or chronic medical condition” means a physical,
18 behavioral, or developmental condition that does not have a known
19 cure or that can be severely debilitating or fatal if left untreated or
20 undertreated.

21 “Rare disease” means any disease or condition that affects less
22 than 200,000 persons in the United States.

23 b. The School Employees’ Health Benefits Commission shall
24 ensure that every contract purchased by the School Employees’
25 Health Benefits Program on or after the effective date of this act,
26 which provides for pharmacy services, prescription drugs, or for
27 participation in a prescription drug plan shall continue to cover a
28 drug for a covered person with a complex or chronic medical
29 condition or a rare disease if:

30 (1) the drug was previously covered by the contract for a
31 medical condition or disease of the covered person; and

32 (2) the prescribing provider continues to prescribe the drug for
33 the medical condition or disease, provided that the drug is
34 appropriately prescribed and neither of the following has occurred:

35 (a) the United States Food and Drug Administration has issued a
36 notice, guidance, warning, announcement, or any other statement
37 about the drug which calls into question the clinical safety of the
38 drug; or

39 (b) the manufacturer of the drug has notified the United States
40 Food and Drug Administration of any manufacturing
41 discontinuance or potential discontinuance as required by 21 U.S.C.
42 s.356c.

43 c. With respect to a drug for a covered person with a complex
44 or chronic medical condition or a rare disease which meets the
45 conditions of subsection b. of this section, except during open
46 enrollment periods, the School Employees’ Health Benefits
47 Program shall not:

- 1 (1) set forth limitations on maximum coverage of prescription
2 drug benefits;
3 (2) subject the covered person to increased out-of-pocket costs;
4 or
5 (3) move a drug for a covered person to a more restrictive tier, if
6 the School Employees' Health Benefits Program uses a formulary
7 with tiers.

8
9 12. This act shall take effect on the 90th day next following
10 enactment.

11

12 STATEMENT

13

14 This bill requires health insurance carriers to provide continued
15 coverage of prescription drugs for covered persons diagnosed with a
16 complex or chronic medical condition or a rare disease.

17 The bill defines "complex or chronic medical condition" as a
18 physical, behavioral, or developmental condition that does not have
19 a known cure or that can be severely debilitating or fatal if left
20 untreated or undertreated. "Rare disease" is defined as any disease
21 or condition that affects less than 200,000 persons in the United
22 States.

23 This bill requires hospital, medical and health service
24 corporations, commercial insurers, health maintenance
25 organizations, health benefits plans issued pursuant to the New
26 Jersey Individual Health Coverage and Small Employer Health
27 Benefits Programs, prepaid prescription service organizations, and
28 plans provided by the State Health Benefits Commission and the
29 School Employees' Health Benefits Commission to provide
30 continued coverage of a prescription drug prescribed for a complex
31 or chronic medical condition or rare disease when the drug: (1) was
32 previously covered by the carrier; and (2) the prescribing provider
33 continues to prescribe the drug for the medical condition or disease,
34 provided the drug is appropriately prescribed, and neither of the
35 following has occurred:

- 36 • the United States Food and Drug Administration has
37 issued a notice, guidance, warning, announcement, or any
38 other statement about the drug which calls into question
39 the clinical safety of the drug; or
40 • the manufacturer of the drug has notified the United
41 States Food and Drug Administration of any
42 manufacturing discontinuance or potential discontinuance
43 as required by 21 U.S.C. s.356c.

44 The bill further provides that a carrier shall not set forth
45 limitations on maximum coverage of prescription drug benefits;
46 subject the covered person to increased out-of-pocket costs; or
47 move a drug for a covered person to a more restrictive tier, if the
48 carrier uses a formulary with tiers.