

[First Reprint]

SENATE, No. 2344

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 9, 2020

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SYNOPSIS

Requires Medicaid and health insurance coverage for certain refills of prescription drugs during state of emergency.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 4, 2020, with amendments.

(Sponsorship Updated As Of: 5/14/2020)

1 AN ACT requiring Medicaid and health insurance coverage for
2 certain prescription drugs during a state of emergency and
3 supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and
4 P.L.1997, c.192 (C.26:2S-1 et seq.).

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

8
9 1. a. Subject to subsection b. of this section and to the extent
10 consistent with clinical guidelines, the State Medicaid and NJ
11 FamilyCare programs shall provide coverage of prescription drug
12 refills even when the covered person has not yet reached the
13 scheduled refill date, provided that the prescription itself would
14 remain valid beyond the refill date, in a manner calculated to ensure
15 an enrollee's ability to maintain at least a 30-day supply, or a 90-
16 day supply of a maintenance medication supply at home 'but not to
17 exceed a 120 day supply on-hand at any given time'. 'The
18 coverage shall be provided based on the authorization for the most
19 recently filled prescription and additional authorization for the refill
20 shall not be required.'¹

21 b. The provisions of this section shall **'[take] be in'** effect if:
22 (1) a state of emergency or public health emergency is declared
23 by the State or federal government, or an emergency supply of a
24 drug is recommended by the Centers for Disease Control and
25 Prevention; and

26 (2) the Commissioner of Human Services determines that an
27 emergency supply of prescription drugs is necessary.

28 c. The coverage shall be provided on an in-network basis to the
29 same extent as for any other refills of prescription drugs, except
30 that:

31 (1) in the event of a drug shortage or access issue, formulary
32 flexibility shall be provided 'for a covered alternative'; and

33 (2) no fees shall be imposed for home delivery of the drugs.

34 d. The Commissioner of Human Services shall apply for such
35 State plan amendments or waivers as may be necessary to
36 implement the provisions of this section and to secure federal
37 financial participation for State Medicaid expenditures under the
38 federal Medicaid program.

39 e. The Division of Consumer Affairs, in consultation with the
40 Commissioner of Human Services, may develop restrictions on the
41 filling or refilling of prescriptions 'by pharmacists' to address
42 shortage concerns, provided those restrictions shall exclude
43 restricting use for existing conditions to the maximum extent
44 practicable.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted May 4, 2020.

1 2. a. Subject to subsection b. of this section and to the extent
2 consistent with clinical guidelines, the Commissioner of Banking
3 and Insurance shall require carriers to provide coverage of
4 prescription drug refills even when the covered person has not yet
5 reached the scheduled refill date, provided that the prescription
6 itself would remain valid beyond the refill date ¹and the member
7 will be eligible beyond the refill date¹, in a manner calculated to
8 ensure a subscriber's ability to maintain at least a 30-day supply, or
9 a 90-day supply of a maintenance medication supply at home ¹but
10 not to exceed a 120 day supply on-hand at any given time¹. ¹The
11 coverage shall be provided based on the authorization for the most
12 recently filled prescription and additional authorization for the refill
13 shall not be required.¹

14 b. The provisions of this section shall ¹~~take~~ be in¹ effect if:

15 (1) a state of emergency or public health emergency is declared
16 by the State or federal government, or an emergency supply of a
17 drug is recommended by the Centers for Disease Control and
18 Prevention; and

19 (2) the commissioner determines that an emergency supply of
20 prescription drugs is necessary.

21 c. The coverage shall be provided on an in-network basis to the
22 same extent as for any other refills of prescription drugs under the
23 health benefits plan, except that:

24 (1) in the event of a drug shortage or access issue identified by
25 the commissioner or the Division of Consumer Affairs, the carrier
26 shall provide formulary flexibility ¹for a covered alternative¹. The
27 cost-sharing for any non-preferred medication shall not exceed the
28 cost-sharing that would be imposed for the preferred medication
29 that is unavailable due to the shortage or access issue; and

30 (2) no fees shall be imposed for home delivery of the drugs.

31 d. The Division of Consumer Affairs, in consultation with the
32 commissioner, may develop restrictions on the filling or refilling of
33 prescriptions ¹by pharmacists¹ to address shortage concerns,
34 provided those restrictions shall exclude restricting use for existing
35 conditions to the maximum extent practicable.

36 e. As used in this section, "carrier" means an insurance
37 company, health service corporation, hospital service corporation,
38 medical service corporation, or health maintenance organization
39 authorized to issue health benefits plans in this State, and shall
40 include the State Health Benefits Program and the School
41 Employees' Health Benefits Program.

42

43 3. This act shall take effect immediately.