



Ohio Legislative Service Commission

Bill Analysis

Katie Bentley

H.B. 237

128th General Assembly
(As Introduced)

Reps. Newcomb, Fende, Weddington, Hagan, Harwood, Boyd, Phillips, Domenick, Letson, Moran, Yuko, Winburn, Luckie, Harris, Bolon

BILL SUMMARY

- Prohibits insurers that provide coverage for cancer chemotherapy treatment from providing coverage for a prescribed, orally administered cancer medication on a less favorable basis than coverage for intravenously administered or injected cancer medications.
 - Prohibits insurers that provide coverage for non-self-injectable medications or medications that must be compounded immediately prior to administration from requiring an enrollee to take possession of such a medication from a pharmacy or from giving an enrollee the option of having such a medication delivered directly to the enrollee.
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CONTENT AND OPERATION

Coverage of orally administered cancer medications

The bill prohibits insurers that provide coverage for cancer chemotherapy treatment from providing coverage for a prescribed, orally administered cancer medication on a less favorable basis than coverage for intravenously administered or injected cancer medications. The bill additionally prohibits imposing a coverage limit, copayment, or deductible that is greater, or a prior authorization requirement that is more stringent, than any coverage limit, copayment, deductible, or prior authorization requirement in the policy, contract, or agreement that applies to coverage for intravenously administered or injected cancer medications. (R.C. 1751.68 and 3923.84.)

Procedures for certain medications

The bill prohibits insurers that provide coverage for non-self-injectable medications, medications that must be compounded immediately prior to administration, or both, from requiring an enrollee or insured to take possession of such a medication from a pharmacy that is a retail seller or from giving an enrollee or insured the option of having such a medication delivered directly to the enrollee or insured by mail or any means of commercial shipment.

The bill uses the following definitions:

"Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under federal law, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under the Pure Food and Drug Law and the Controlled Substances Law, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V controlled substance and that is exempt from the Controlled Substances Law or to which that Law does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

"Pharmacy" except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted.

"Non-self-injectable medication" means a dangerous drug intended for administration by injection that an individual cannot reasonably self-administer.

"Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration, and includes a specialty pharmacy or mail order pharmacy. (R.C. 1751.69 and 3923.85 and, by reference, R.C. 4729.01.)

Application of the bill

The bill's prohibitions apply to the following insurers: (1) any individual or group health insuring corporation policy, contract, or agreement providing basic health care services or prescription drug services that is delivered, issued for delivery, or renewed in Ohio on or after the bill's effective date, (2) any individual or group policy of sickness and accident insurance that is delivered, issued for delivery, or renewed in Ohio on or after the bill's effective date, (3) any public employee benefit plan that is established or modified in Ohio on or after the bill's effective date, and (4) multiple employer welfare arrangements. (R.C. 1739.05(B), 1751.698(A), 1751.69(B), 3923.85(A), and 3923.86(B).)

Exemption from review by the Superintendent of Insurance

The coverage required under the bill may be considered mandated health benefits. Under R.C. 3901.71, no mandated health benefits¹ legislation enacted by the General Assembly may be applied to any policy, contract, plan, or other arrangement providing sickness and accident or other health benefits until the Superintendent of Insurance determines, pursuant to a hearing conducted in accordance with the Administrative Procedure Act (R.C. Chapter 119.), that the provision can be applied fully and equally in all respects to (1) employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA)² and (2) employee benefit plans established or modified by the state or any political subdivision of the state, or by any agency or instrumentality of the state or any political subdivision of the state. The bill includes a provision that exempts its requirements regarding orally administered cancer medications from this restriction. (R.C. 1751.68(A) and 3923.84(A).)

¹ R.C. 3901.71 defines "mandated health benefits" as any required coverage, or required offering of coverage, for the expenses of specified services, treatments, or diseases under any policy, contract, plan, or other arrangement providing sickness and accident or other health benefits to policyholders, subscribers, or members.

² ERISA is a comprehensive federal statute that governs the administration of employee benefit plans. ERISA generally precludes direct state regulation of benefits offered by private employers but allows state regulation of the business of insurance. Therefore, ERISA preempts the state's ability to require private self-insuring employers to offer to cover certain services.

HISTORY

ACTION

DATE

Introduced

06-23-09

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