WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3067

By Delegate Rohrbach

[Introduced ; referred

to the Committee on]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §33-64-1, §33-64-2, §33-64-3, and §33-64-4, relating to protecting patient access to clinician-administered medications; providing definitions; clarifying prohibited practices; creating penalties; and clarifying contracts.

Be it enacted by the Legislature of West Virginia:

ARTICLE 64. PROTECTING PATIENT ACCESS TO CLINICAN-ADMINISTERED MEDICATIONS.

§33-64-1. Definitions.

The following words shall have the following meanings:

"Covered individual" means the same as §33-51-3 of this code.

"Clinician-administered drug" means any prescription drug, other than a vaccine that:

(1) Cannot reasonably be self-administered by the patient to whom the drug is prescribed or by a non-clinician individual assisting the patient with the self-administration; and

(2) Is typically administered:

(A) By a health care professional authorized under the laws of this state to administer the drug, including when acting under a physician’s delegation and supervision; and

(B) In a physician's office, hospital outpatient infusion center, or other clinical setting.

§33-64-2. Prohibited practices.

(a) A health insurance issuer, pharmacy benefit manager, or their agent may not refuse to authorize, approve, or pay a participating provider for providing covered clinician-administered drugs and related services to covered persons.

(b) A health insurance issuer may not condition, deny, restrict, refuse to authorize or approve, or reduce payment to a participating provider for a clinician-administered drug when all criteria for medical necessity are met, because the participating provider obtains clinician-administered drugs from a pharmacy that is not a participating provider in the health insurance

issuer's network. The drug supplied shall meet the supply chain security controls and chain of distribution set by the federal Drug Supply Chain Security Act, 29 Pub. L. 113-54, as amended. The payment shall be at the rate set forth in the health insurance issuer's agreement with the participating provider applicable to such drugs, or if no such rate is included in the agreement, then at the wholesale acquisition cost.

(c) A health insurance issuer, pharmacy benefit manager, or their agent may not require a covered person to pay an additional fee, or any other increased cost-sharing amount in addition to applicable cost sharing amounts payable by the covered person as designated within the benefit plan to obtain the clinician-administered drug when not dispensed by a pharmacy selected by the health plan.

(d) A health insurance issuer shall not:

(1) Interfere with the patient's right to choose to obtain a clinician-administered drug from their provider or pharmacy of choice, including inducement, steering, or offering financial or other incentives;

(2) Require clinician-administered drugs to be dispensed by a pharmacy selected by the health plan;

(3) Limit or exclude coverage for a clinician-administered drug when not dispensed by a pharmacy selected by the health plan, if such drug would otherwise be covered;

(4) Reimburse at a lesser amount clinician-administered drugs dispensed by a pharmacy not selected by the health plan; or

(5) Require a specialty pharmacy to dispense a clinician-administered medication directly to a patient with the intention that the patient will transport the medication to a healthcare provider for administration.

(e) A health benefit issuer may offer, but shall not require:

(1) The use of a home infusion pharmacy to dispense clinician-administered drugs to patients in their homes; or

(2) The use of an infusion site external to a patient's provider office or clinic.

(f) Nothing in this section may:

(1) Prohibit a health insurance issuer or its agent from establishing differing copayments or other cost-sharing amounts within the benefit plan for covered persons who acquire clinician-administered drugs from other providers.

(2) Prohibit a health insurance issuer or its agent from refusing to authorize or approve, or from denying coverage of a clinician-administered drug based upon failure to satisfy medical necessity criteria. The location of receiving the clinician-administered drug may not be included in the medical necessity criteria.

(3) Prohibit a health insurance issuer from establishing specialty care centers of excellence based on nationally established, objective quality measures, to be utilized by covered persons focused on specific drugs or types of drugs to impact the safety, quality, affordability, and expertise of treatment.

§33-64-3. Penalties.

The commission of any act prohibited by this section is an unfair method of competition and unfair practice or act which shall subject the violator to all actions, including investigative demands, private actions, remedies, and penalties, provided for in the Unfair Trade Practices and Consumer Protection Law.

§33-64-4. Contracts.

Any provision of a contract that is contrary to any provision of this section is null, void, and unenforceable in this state.

NOTE: The purpose of this bill is to protect patient access to clinician-administered medications.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.