

ASSEMBLY, No. 3970

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Assemblywoman Murphy

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/4/2020)

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

17 b. The provisions of this section shall take effect if:

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

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

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

26 (1) in the event of a drug shortage or access issue, formulary
27 flexibility shall be provided; and

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

29 d. The Commissioner of Human Services shall apply for such
30 State plan amendments or waivers as may be necessary to implement
31 the provisions of this section and to secure federal financial
32 participation for State Medicaid expenditures under the federal
33 Medicaid program.

34 e. The Division of Consumer Affairs, in consultation with the
35 Commissioner of Human Services, may develop restrictions on the
36 filling or refilling of prescriptions to address shortage concerns,
37 provided those restrictions shall exclude restricting use for existing
38 conditions to the maximum extent practicable.
39

40 2. a. Subject to subsection b. of this section and to the extent
41 consistent with clinical guidelines, the Commissioner of Banking and
42 Insurance shall require carriers to provide coverage of prescription
43 drug refills even when the covered person has not yet reached the
44 scheduled refill date, provided that the prescription itself would
45 remain valid beyond the refill date, in a manner calculated to ensure
46 a subscriber's ability to maintain at least a 30-day supply, or a 90-
47 day supply of a maintenance medication supply at home.

48 b. The provisions of this section shall take effect if:

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

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

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

10 (1) in the event of a drug shortage or access issue identified by
 11 the commissioner or the Division of Consumer Affairs, the carrier
 12 shall provide formulary flexibility. The cost-sharing for any non-
 13 preferred medication shall not exceed the cost-sharing that would be
 14 imposed for the preferred medication that is unavailable due to the
 15 shortage or access issue; and

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

17 d. The Division of Consumer Affairs, in consultation with the
 18 commissioner, may develop restrictions on the filling or refilling of
 19 prescriptions to address shortage concerns, provided those
 20 restrictions shall exclude restricting use for existing conditions to the
 21 maximum extent practicable.

22 e. As used in this section, "carrier" means an insurance
 23 company, health service corporation, hospital service corporation,
 24 medical service corporation, or health maintenance organization
 25 authorized to issue health benefits plans in this State, and shall
 26 include the State Health Benefits Program and the School Employees'
 27 Health Benefits Program.

28

29 3. This act shall take effect immediately.

30

31

32 STATEMENT

33

34 This bill requires carriers (insurance companies, health, hospital,
 35 and medical service corporations, health maintenance organizations,
 36 and State and School Employees' Health Benefits Program
 37 contracts), that offer a health benefits plan in this State which
 38 provides benefits for pharmacy services, prescription drugs, or for
 39 participation in a prescription drug plan, as well as the State Medicaid
 40 program, to provide coverage of prescription drug refills even when
 41 the covered person has not yet reached the scheduled refill date,
 42 provided that the prescription itself would remain valid beyond the
 43 refill date, in a manner calculated to ensure an enrollee's ability to
 44 maintain at least a 30-day supply, or a 90-day supply of a
 45 maintenance medication supply at home.

46 The provisions of the bill take effect if:

47 (1) a state of emergency or public health emergency is declared
 48 by the State or federal government, or an emergency supply of a drug

1 is recommended by the Centers for Disease Control and Prevention;
2 and

3 (2) the Commissioner of Banking and Insurance or, in the case of
4 the State Medicaid program, the Commissioner of Human Services,
5 determines that an emergency supply of prescription drugs is
6 necessary.

7 The coverage is required to be provided to the same extent as for
8 any other refills of prescription drugs, except that:

9 (1) in the event of a drug shortage or access issue, formulary
10 flexibility is required to be provided; and

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

12 The bill also provides that the Division of Consumer Affairs, in
13 consultation with the Commissioner of Banking and Insurance, or, in
14 the case of the State Medicaid program, the Commissioner of Human
15 Services, may develop restrictions on the filling or refilling of
16 prescriptions to address shortage concerns, provided those
17 restrictions shall exclude restricting use for existing conditions to the
18 maximum extent practicable.