

P.L. 2020, CHAPTER 30, *approved May 15, 2020*

Senate, No. 2344 (*First Reprint*)

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:

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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 ¹but not to
17 exceed a 120 day supply on-hand at any given time¹. ¹The
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**¹ 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 ¹for a covered alternative¹; 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.

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 e. The Division of Consumer Affairs, in consultation with the
2 Commissioner of Human Services, may develop restrictions on the
3 filling or refilling of prescriptions 'by pharmacists' to address
4 shortage concerns, provided those restrictions shall exclude
5 restricting use for existing conditions to the maximum extent
6 practicable.

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8 2. a. Subject to subsection b. of this section and to the extent
9 consistent with clinical guidelines, the Commissioner of Banking
10 and Insurance shall require carriers to provide coverage of
11 prescription drug refills even when the covered person has not yet
12 reached the scheduled refill date, provided that the prescription
13 itself would remain valid beyond the refill date 'and the member
14 will be eligible beyond the refill date', in a manner calculated to
15 ensure a subscriber's ability to maintain at least a 30-day supply, or
16 a 90-day supply of a maintenance medication supply at home 'but
17 not to 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.'

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 determines that an emergency supply of
27 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 under the
30 health benefits plan, except that:

31 (1) in the event of a drug shortage or access issue identified by
32 the commissioner or the Division of Consumer Affairs, the carrier
33 shall provide formulary flexibility 'for a covered alternative'. The
34 cost-sharing for any non-preferred medication shall not exceed the
35 cost-sharing that would be imposed for the preferred medication
36 that is unavailable due to the shortage or access issue; and

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

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

43 e. As used in this section, "carrier" means an insurance
44 company, health service corporation, hospital service corporation,
45 medical service corporation, or health maintenance organization
46 authorized to issue health benefits plans in this State, and shall

1 include the State Health Benefits Program and the School
2 Employees' Health Benefits Program.

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4 3. This act shall take effect immediately.

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