

**SENATE, No. 1182**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JANUARY 31, 2022

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

**SYNOPSIS**

Requires continued coverage of prescription drugs for certain medical conditions.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning prescription drug coverage for certain medical  
2 conditions and supplementing various parts of the statutory law.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. As used in this section:

8 “Complex or chronic medical condition” means a physical,  
9 behavioral, or developmental condition that does not have a known  
10 cure or that can be severely debilitating or fatal if left untreated or  
11 undertreated.

12 “Rare disease” means any disease or condition that affects less  
13 than 200,000 persons in the United States.

14 b. Every group or individual hospital service corporation  
15 contract delivered, issued, executed or renewed in this State, or  
16 approved for issuance or renewal in this State, on or after the  
17 effective date of this act, which provides for pharmacy services,  
18 prescription drugs, or for participation in a prescription drug plan  
19 shall continue to cover a drug for a covered person with a complex  
20 or chronic medical condition or a rare disease if:

21 (1) the drug was previously covered by the contract for a  
22 medical condition or disease of the covered person; and

23 (2) the prescribing provider continues to prescribe the drug for  
24 the medical condition or disease, provided that the drug is  
25 appropriately prescribed and neither of the following has occurred:

26 (a) the United States Food and Drug Administration has issued a  
27 notice, guidance, warning, announcement, or any other statement  
28 about the drug which calls into question the clinical safety of the  
29 drug; or

30 (b) the manufacturer of the drug has notified the United States  
31 Food and Drug Administration of any manufacturing  
32 discontinuance or potential discontinuance as required by 21 U.S.C.  
33 s.356c.

34 c. With respect to a drug for a covered person with a complex  
35 or chronic medical condition or a rare disease which meets the  
36 conditions of subsection b. of this section, except during open  
37 enrollment periods, a group or individual hospital service  
38 corporation contract shall not:

39 (1) set forth limitations on maximum coverage of prescription  
40 drug benefits;

41 (2) subject the covered person to increased out-of-pocket costs;  
42 or

43 (3) move a drug for a covered person to a more restrictive tier, if  
44 the group or individual hospital service corporation uses a  
45 formulary with tiers.

46  
47 2. a. As used in this section:

1 “Complex or chronic medical condition” means a physical,  
2 behavioral, or developmental condition that does not have a known  
3 cure or that can be severely debilitating or fatal if left untreated or  
4 undertreated.

5 “Rare disease” means any disease or condition that affects less  
6 than 200,000 persons in the United States.

7 b. Every group or individual medical service corporation  
8 contract delivered, issued, executed or renewed in this State, or  
9 approved for issuance or renewal in this State, on or after the  
10 effective date of this act, which provides for pharmacy services,  
11 prescription drugs, or for participation in a prescription drug plan  
12 shall continue to cover a drug for a covered person with a complex  
13 or chronic medical condition or a rare disease if:

14 (1) the drug was previously covered by the contract for a  
15 medical condition or disease of the covered person; and

16 (2) the prescribing provider continues to prescribe the drug for  
17 the medical condition or disease, provided that the drug is  
18 appropriately prescribed and neither of the following has occurred:

19 (a) the United States Food and Drug Administration has issued a  
20 notice, guidance, warning, announcement, or any other statement  
21 about the drug which calls into question the clinical safety of the  
22 drug; or

23 (b) the manufacturer of the drug has notified the United States  
24 Food and Drug Administration of any manufacturing  
25 discontinuance or potential discontinuance as required by 21 U.S.C.  
26 s.356c.

27 c. With respect to a drug for a covered person with a complex  
28 or chronic medical condition or a rare disease which meets the  
29 conditions of subsection b. of this section, except during open  
30 enrollment periods, a group or individual medical service  
31 corporation contract shall not:

32 (1) set forth limitations on maximum coverage of prescription  
33 drug benefits;

34 (2) subject the covered person to increased out-of-pocket costs;  
35 or

36 (3) move a drug for a covered person to a more restrictive tier, if  
37 the group or individual medical service corporation uses a  
38 formulary with tiers.

39  
40 3. a. As used in this section:

41 “Complex or chronic medical condition” means a physical,  
42 behavioral, or developmental condition that does not have a known  
43 cure or that can be severely debilitating or fatal if left untreated or  
44 undertreated.

45 “Rare disease” means any disease or condition that affects less  
46 than 200,000 persons in the United States.

47 b. Every group or individual health service corporation contract  
48 delivered, issued, executed or renewed in this State, or approved for

1 issuance or renewal in this State, on or after the effective date of  
2 this act, which provides for pharmacy services, prescription drugs,  
3 or for participation in a prescription drug plan shall continue to  
4 cover a drug for a covered person with a complex or chronic  
5 medical condition or a rare disease if:

6 (1) the drug was previously covered by the contract for a  
7 medical condition or disease of the covered person; and

8 (2) the prescribing provider continues to prescribe the drug for  
9 the medical condition or disease, provided that the drug is  
10 appropriately prescribed and neither of the following has occurred:

11 (a) the United States Food and Drug Administration has issued a  
12 notice, guidance, warning, announcement, or any other statement  
13 about the drug which calls into question the clinical safety of the  
14 drug; or

15 (b) the manufacturer of the drug has notified the United States  
16 Food and Drug Administration of any manufacturing  
17 discontinuance or potential discontinuance as required by 21 U.S.C.  
18 s.356c.

19 c. With respect to a drug for a covered person with a complex  
20 or chronic medical condition or a rare disease which meets the  
21 conditions of subsection b. of this section, except during open  
22 enrollment periods, a group or individual health service corporation  
23 contract shall not:

24 (1) set forth limitations on maximum coverage of prescription  
25 drug benefits;

26 (2) subject the covered person to increased out-of-pocket costs;  
27 or

28 (3) move a drug for a covered person to a more restrictive tier, if  
29 the group or individual health service corporation uses a formulary  
30 with tiers.

31  
32 4. a. As used in this section:

33 “Complex or chronic medical condition” means a physical,  
34 behavioral, or developmental condition that does not have a known  
35 cure or that can be severely debilitating or fatal if left untreated or  
36 undertreated.

37 “Rare disease” means any disease or condition that affects less  
38 than 200,000 persons in the United States.

39 b. Every individual health insurance policy or contract  
40 delivered, issued, executed or renewed in this State, or approved for  
41 issuance or renewal in this State, on or after the effective date of  
42 this act, which provides for pharmacy services, prescription drugs,  
43 or for participation in a prescription drug plan shall continue to  
44 cover a drug for a covered person with a complex or chronic  
45 medical condition or a rare disease if:

46 (1) the drug was previously covered by the policy or contract for  
47 a medical condition or disease of the covered person; and

1 (2) the prescribing provider continues to prescribe the drug for  
2 the medical condition or disease, provided that the drug is  
3 appropriately prescribed and neither of the following has occurred:

4 (a) the United States Food and Drug Administration has issued a  
5 notice, guidance, warning, announcement, or any other statement  
6 about the drug which calls into question the clinical safety of the  
7 drug; or

8 (b) the manufacturer of the drug has notified the United States  
9 Food and Drug Administration of any manufacturing  
10 discontinuance or potential discontinuance as required by 21 U.S.C.  
11 s.356c.

12 c. With respect to a drug for a covered person with a complex  
13 or chronic medical condition or a rare disease which meets the  
14 conditions of subsection b. of this section, except during open  
15 enrollment periods, an individual health insurance policy or  
16 contract shall not:

17 (1) set forth limitations on maximum coverage of prescription  
18 drug benefits;

19 (2) subject the covered person to increased out-of-pocket costs;  
20 or

21 (3) move a drug for a covered person to a more restrictive tier, if  
22 the individual health insurance policy or contract uses a formulary  
23 with tiers.

24

25 5. a. As used in this section:

26 “Complex or chronic medical condition” means a physical,  
27 behavioral, or developmental condition that does not have a known  
28 cure or that can be severely debilitating or fatal if left untreated or  
29 undertreated.

30 “Rare disease” means any disease or condition that affects less  
31 than 200,000 persons in the United States.

32 b. Every group health insurance policy or contract delivered,  
33 issued, executed or renewed in this State, or approved for issuance  
34 or renewal in this State, on or after the effective date of this act,  
35 which provides for pharmacy services, prescription drugs, or for  
36 participation in a prescription drug plan shall continue to cover a  
37 drug for a covered person with a complex or chronic medical  
38 condition or a rare disease if:

39 (1) the drug was previously covered by the policy or contract for  
40 a medical condition or disease of the covered person; and

41 (2) the prescribing provider continues to prescribe the drug for  
42 the medical condition or disease, provided that the drug is  
43 appropriately prescribed and neither of the following has occurred:

44 (a) the United States Food and Drug Administration has issued a  
45 notice, guidance, warning, announcement, or any other statement  
46 about the drug which calls into question the clinical safety of the  
47 drug; or

1 (b) the manufacturer of the drug has notified the United States  
2 Food and Drug Administration of any manufacturing  
3 discontinuance or potential discontinuance as required by 21 U.S.C.  
4 s.356c.

5 c. With respect to a drug for a covered person with a complex  
6 or chronic medical condition or a rare disease which meets the  
7 conditions of subsection b. of this section, except during open  
8 enrollment periods, a group health insurance policy or contract shall  
9 not:

10 (1) set forth limitations on maximum coverage of prescription  
11 drug benefits;

12 (2) subject the covered person to increased out-of-pocket costs;  
13 or

14 (3) move a drug for a covered person to a more restrictive tier, if  
15 the group health insurance policy or contract uses a formulary with  
16 tiers.

17

18 6. a. As used in this section:

19 “Complex or chronic medical condition” means a physical,  
20 behavioral, or developmental condition that does not have a known  
21 cure or that can be severely debilitating or fatal if left untreated or  
22 undertreated.

23 “Rare disease” means any disease or condition that affects less  
24 than 200,000 persons in the United States.

25 b. Every certificate of authority to establish and operate a  
26 health maintenance organization issued, continued or renewed in  
27 this State, or approved for issuance or renewal in this State, on or  
28 after the effective date of this act, which provides for pharmacy  
29 services, prescription drugs, or for participation in a prescription  
30 drug plan shall continue to cover a drug for a covered person with a  
31 complex or chronic medical condition or a rare disease if:

32 (1) the drug was previously covered by the enrollee agreement  
33 for a medical condition or disease of the covered person; and

34 (2) the prescribing provider continues to prescribe the drug for  
35 the medical condition or disease, provided that the drug is  
36 appropriately prescribed and neither of the following has occurred:

37 (a) the United States Food and Drug Administration has issued a  
38 notice, guidance, warning, announcement, or any other statement  
39 about the drug which calls into question the clinical safety of the  
40 drug; or

41 (b) the manufacturer of the drug has notified the United States  
42 Food and Drug Administration of any manufacturing  
43 discontinuance or potential discontinuance as required by 21 U.S.C.  
44 s.356c.

45 c. With respect to a drug for a covered person with a complex  
46 or chronic medical condition or a rare disease which meets the  
47 conditions of subsection b. of this section, except during open  
48 enrollment periods, an enrollee agreement shall not:

1 (1) set forth limitations on maximum coverage of prescription  
2 drug benefits;

3 (2) subject the covered person to increased out-of-pocket costs;  
4 or

5 (3) move a drug for a covered person to a more restrictive tier, if  
6 the enrollee agreement uses a formulary with tiers.

7

8 7. a. As used in this section:

9 “Complex or chronic medical condition” means a physical,  
10 behavioral, or developmental condition that does not have a known  
11 cure or that can be severely debilitating or fatal if left untreated or  
12 undertreated.

13 “Rare disease” means any disease or condition that affects less  
14 than 200,000 persons in the United States.

15 b. Every individual health benefits plan delivered, issued,  
16 executed or renewed in this State, or approved for issuance or  
17 renewal in this State, on or after the effective date of this act, which  
18 provides for pharmacy services, prescription drugs, or for  
19 participation in a prescription drug plan shall continue to cover a  
20 drug for a covered person with a complex or chronic medical  
21 condition or a rare disease if:

22 (1) the drug was previously covered by the plan for a medical  
23 condition or disease of the covered person; and

24 (2) the prescribing provider continues to prescribe the drug for  
25 the medical condition or disease, provided that the drug is  
26 appropriately prescribed and neither of the following has occurred:

27 (a) the United States Food and Drug Administration has issued a  
28 notice, guidance, warning, announcement, or any other statement  
29 about the drug which calls into question the clinical safety of the  
30 drug; or

31 (b) the manufacturer of the drug has notified the United States  
32 Food and Drug Administration of any manufacturing  
33 discontinuance or potential discontinuance as required by 21 U.S.C.  
34 s.356c.

35 c. With respect to a drug for a covered person with a complex  
36 or chronic medical condition or a rare disease which meets the  
37 conditions of subsection b. of this section, except during open  
38 enrollment periods, an individual health benefits plan shall not:

39 (1) set forth limitations on maximum coverage of prescription  
40 drug benefits;

41 (2) subject the covered person to increased out-of-pocket costs;  
42 or

43 (3) move a drug for a covered person to a more restrictive tier, if  
44 the individual health benefits plan uses a formulary with tiers.

45

46 8. a. As used in this section:

47 “Complex or chronic medical condition” means a physical,  
48 behavioral, or developmental condition that does not have a known

1 cure or that can be severely debilitating or fatal if left untreated or  
2 undertreated.

3 “Rare disease” means any disease or condition that affects less  
4 than 200,000 persons in the United States.

5 b. Every small employer health benefits plan delivered, issued,  
6 executed or renewed in this State, or approved for issuance or  
7 renewal in this State, on or after the effective date of this act, which  
8 provides for pharmacy services, prescription drugs, or for  
9 participation in a prescription drug plan shall continue to cover a  
10 drug for a covered person with a complex or chronic medical  
11 condition or a rare disease if:

12 (1) the drug was previously covered by the plan for a medical  
13 condition or disease of the covered person; and

14 (2) the prescribing provider continues to prescribe the drug for  
15 the medical condition or disease, provided that the drug is  
16 appropriately prescribed and neither of the following has occurred:

17 (a) the United States Food and Drug Administration has issued a  
18 notice, guidance, warning, announcement, or any other statement  
19 about the drug which calls into question the clinical safety of the  
20 drug; or

21 (b) the manufacturer of the drug has notified the United States  
22 Food and Drug Administration of any manufacturing  
23 discontinuance or potential discontinuance as required by 21 U.S.C.  
24 s.356c.

25 c. With respect to a drug for a covered person with a complex  
26 or chronic medical condition or a rare disease which meets the  
27 conditions of subsection b. of this section, except during open  
28 enrollment periods, a small employer health benefits plan shall not:

29 (1) set forth limitations on maximum coverage of prescription  
30 drug benefits;

31 (2) subject the covered person to increased out-of-pocket costs;  
32 or

33 (3) move a drug for a covered person to a more restrictive tier, if  
34 the small employer health benefits plan uses a formulary with tiers.

35  
36 9. a. As used in this section:

37 “Complex or chronic medical condition” means a physical,  
38 behavioral, or developmental condition that does not have a known  
39 cure or that can be severely debilitating or fatal if left untreated or  
40 undertreated.

41 “Rare disease” means any disease or condition that affects less  
42 than 200,000 persons in the United States.

43 b. Every prepaid prescription service organization contract  
44 delivered, issued, executed or renewed in this State, or approved for  
45 issuance or renewal in this State, on or after the effective date of  
46 this act, shall continue to cover a drug for a covered person with a  
47 complex or chronic medical condition or a rare disease if:



1       (1) the drug was previously covered by the contract for a  
2 medical condition or disease of the covered person; and  
3       (2) the prescribing provider continues to prescribe the drug for  
4 the medical condition or disease, provided that the drug is  
5 appropriately prescribed and neither of the following has occurred:  
6       (a) the United States Food and Drug Administration has issued a  
7 notice, guidance, warning, announcement, or any other statement  
8 about the drug which calls into question the clinical safety of the  
9 drug; or  
10       (b) the manufacturer of the drug has notified the United States  
11 Food and Drug Administration of any manufacturing  
12 discontinuance or potential discontinuance as required by 21 U.S.C.  
13 s.356c.  
14       c. With respect to a drug for a covered person with a complex  
15 or chronic medical condition or a rare disease which meets the  
16 conditions of subsection b. of this section, except during open  
17 enrollment periods, the prepaid prescription contract shall not:  
18       (1) set forth limitations on maximum coverage of prescription  
19 drug benefits;  
20       (2) subject the covered person to increased out-of-pocket costs;  
21 or  
22       (3) move a drug for a covered person to a more restrictive tier, if  
23 the prepaid prescription service organization uses a formulary with  
24 tiers.  
25  
26       10. a. As used in this section:  
27       “Complex or chronic medical condition” means a physical,  
28 behavioral, or developmental condition that does not have a known  
29 cure or that can be severely debilitating or fatal if left untreated or  
30 undertreated.  
31       “Rare disease” means any disease or condition that affects less  
32 than 200,000 persons in the United States.  
33       b. The State Health Benefits Commission shall ensure that  
34 every contract purchased by the State Health Benefits Program on  
35 or after the effective date of this act, which provides for pharmacy  
36 services, prescription drugs, or for participation in a prescription  
37 drug plan shall continue to cover a drug for a covered person with a  
38 complex or chronic medical condition or a rare disease if:  
39       (1) the drug was previously covered by the contract for a  
40 medical condition or disease of the covered person; and  
41       (2) the prescribing provider continues to prescribe the drug for  
42 the medical condition or disease, provided that the drug is  
43 appropriately prescribed and neither of the following has occurred:  
44       (a) the United States Food and Drug Administration has issued a  
45 notice, guidance, warning, announcement, or any other statement  
46 about the drug which calls into question the clinical safety of the  
47 drug; or

1 (b) the manufacturer of the drug has notified the United States  
2 Food and Drug Administration of any manufacturing  
3 discontinuance or potential discontinuance as required by 21 U.S.C.  
4 s.356c.

5 c. With respect to a drug for a covered person with a complex  
6 or chronic medical condition or a rare disease which meets the  
7 conditions of subsection b. of this section, except during open  
8 enrollment periods, the State Health Benefits Program shall not:

9 (1) set forth limitations on maximum coverage of prescription  
10 drug benefits;

11 (2) subject the covered person to increased out-of-pocket costs;  
12 or

13 (3) move a drug for a covered person to a more restrictive tier, if  
14 the State Health Benefits Program uses a formulary with tiers.

15  
16 11. a. As used in this section:

17 “Complex or chronic medical condition” means a physical,  
18 behavioral, or developmental condition that does not have a known  
19 cure or that can be severely debilitating or fatal if left untreated or  
20 undertreated.

21 “Rare disease” means any disease or condition that affects less  
22 than 200,000 persons in the United States.

23 b. The School Employees’ Health Benefits Commission shall  
24 ensure that every contract purchased by the School Employees’  
25 Health Benefits Program on or after the effective date of this act,  
26 which provides for pharmacy services, prescription drugs, or for  
27 participation in a prescription drug plan shall continue to cover a  
28 drug for a covered person with a complex or chronic medical  
29 condition or a rare disease if:

30 (1) the drug was previously covered by the contract for a  
31 medical condition or disease of the covered person; and

32 (2) the prescribing provider continues to prescribe the drug for  
33 the medical condition or disease, provided that the drug is  
34 appropriately prescribed and neither of the following has occurred:

35 (a) the United States Food and Drug Administration has issued a  
36 notice, guidance, warning, announcement, or any other statement  
37 about the drug which calls into question the clinical safety of the  
38 drug; or

39 (b) the manufacturer of the drug has notified the United States  
40 Food and Drug Administration of any manufacturing  
41 discontinuance or potential discontinuance as required by 21 U.S.C.  
42 s.356c.

43 c. With respect to a drug for a covered person with a complex  
44 or chronic medical condition or a rare disease which meets the  
45 conditions of subsection b. of this section, except during open  
46 enrollment periods, the School Employees’ Health Benefits  
47 Program shall not:

- 1 (1) set forth limitations on maximum coverage of prescription  
2 drug benefits;  
3 (2) subject the covered person to increased out-of-pocket costs;  
4 or  
5 (3) move a drug for a covered person to a more restrictive tier, if  
6 the School Employees' Health Benefits Program uses a formulary  
7 with tiers.

8  
9 12. This act shall take effect on the 90th day next following  
10 enactment.

11  
12 STATEMENT

13  
14 This bill requires health insurance carriers to provide continued  
15 coverage of prescription drugs for covered persons diagnosed with a  
16 complex or chronic medical condition or a rare disease.

17 The bill defines "complex or chronic medical condition" as a  
18 physical, behavioral, or developmental condition that does not have  
19 a known cure or that can be severely debilitating or fatal if left  
20 untreated or undertreated. "Rare disease" is defined as any disease  
21 or condition that affects less than 200,000 persons in the United  
22 States.

23 This bill requires hospital, medical and health service  
24 corporations, commercial insurers, health maintenance  
25 organizations, health benefits plans issued pursuant to the New  
26 Jersey Individual Health Coverage and Small Employer Health  
27 Benefits Programs, prepaid prescription service organizations, and  
28 plans provided by the State Health Benefits Commission and the  
29 School Employees' Health Benefits Commission to provide  
30 continued coverage of a prescription drug prescribed for a complex  
31 or chronic medical condition or rare disease when the drug: (1) was  
32 previously covered by the carrier; and (2) the prescribing provider  
33 continues to prescribe the drug for the medical condition or disease,  
34 provided the drug is appropriately prescribed, and neither of the  
35 following has occurred:

- 36 • the United States Food and Drug Administration has  
37 issued a notice, guidance, warning, announcement, or any  
38 other statement about the drug which calls into question  
39 the clinical safety of the drug; or  
40 • the manufacturer of the drug has notified the United  
41 States Food and Drug Administration of any  
42 manufacturing discontinuance or potential discontinuance  
43 as required by 21 U.S.C. s.356c.

44 The bill further provides that a carrier shall not set forth  
45 limitations on maximum coverage of prescription drug benefits;  
46 subject the covered person to increased out-of-pocket costs; or  
47 move a drug for a covered person to a more restrictive tier, if the  
48 carrier uses a formulary with tiers.