

CHAPTER 30

AN ACT requiring Medicaid and health insurance coverage for certain prescription drugs during a state of emergency and supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1997, c.192 (C.26:2S-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.30:4D-6p Coverage of certain prescription refills by Medicaid, NJ FamilyCare during state of emergency.

1. a. Subject to subsection b. of this section and to the extent consistent with clinical guidelines, the State Medicaid and NJ FamilyCare programs shall provide coverage of prescription drug refills even when the covered person has not yet reached the scheduled refill date, provided that the prescription itself would remain valid beyond the refill date, in a manner calculated to ensure an enrollee's ability to maintain at least a 30-day supply, or a 90-day supply of a maintenance medication supply at home but not to exceed a 120-day supply on-hand at any given time. The coverage shall be provided based on the authorization for the most recently filled prescription and additional authorization for the refill shall not be required.

b. The provisions of this section shall be in effect if:

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

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

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

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

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

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

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

C.26:2S-37 Insurance plans to cover prescription refills during state of emergency.

2. a. Subject to subsection b. of this section and to the extent consistent with clinical guidelines, the Commissioner of Banking and Insurance shall require carriers to provide coverage of prescription drug refills even when the covered person has not yet reached the scheduled refill date, provided that the prescription itself would remain valid beyond the refill date and the member will be eligible beyond the refill date, in a manner calculated to ensure a subscriber's ability to maintain at least a 30-day supply, or a 90-day supply of a maintenance medication supply at home but not to exceed a 120-day supply on-hand at any given time. The coverage shall be provided based on the authorization for the most recently filled prescription and additional authorization for the refill shall not be required.

b. The provisions of this section shall be in effect if:

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

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

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

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

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

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

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

3. This act shall take effect immediately.

Approved May 15, 2020.