

SUBJECT: Prohibiting step therapy protocols for certain prescription drugs

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Oliverson, J. González, Hull, Israel, Middleton, Paul, Romero, Sanford
0 nays
1 absent — Vo

SENATE VOTE: On final passage, May 12 — 30-0

WITNESSES: None

BACKGROUND: Insurance Code sec. 1369.051 defines "step therapy protocol" as a protocol that requires an enrollee to use a prescription drug or sequence of prescription drugs other than the drug that the enrollee's physician recommends for treatment before the health benefit plan provides coverage for the recommended drug.

Sec. 1355.001 defines "serious mental illness" as certain specified psychiatric illnesses, including bipolar disorders, depression in childhood and adolescence, obsessive-compulsive disorders, and schizophrenia.

Concerns have been raised that some health insurance plans may not provide coverage for the drug originally prescribed to an enrollee without some form of step therapy, in which the enrollee must first fail to successfully respond to different, sometimes less expensive drugs. Some have suggested limiting step therapy protocols to improve access and health outcomes for individuals with serious mental illness.

DIGEST: SB 2051 would prohibit a health benefit plan that provided coverage for prescription drugs to treat a serious mental illness from requiring, before the health plan provided coverage of a U.S. Food and Drug Administration-approved drug, that the enrollee:

- fail to successfully respond to more than one different drug for each prescribed drug, excluding the drug's generic or pharmaceutical equivalent; or
- prove a history of failure of more than one different drug for each prescribed drug, excluding the drug's generic or pharmaceutical equivalent.

The bill would apply only to a drug prescribed to an enrollee who was at least 18 years old to treat a diagnosis of a serious mental illness.

Under the bill, a health benefit plan issuer could implement a step therapy protocol to require a trial of a generic or pharmaceutical equivalent of a prescribed drug as a condition of continued coverage of the prescribed drug only once in a plan year and if the equivalent drug was added to the plan's drug formulary.

The bill would take effect September 1, 2021, and would apply only to a health benefit plan issued or renewed on or after January 1, 2022.

NOTES:

The House companion bill, HB 2504 by J. González, was considered by the House Insurance Committee in a public hearing on April 6, reported favorably on April 16, and sent to the Calendars Committee.