

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 347

Short Title: Pres. Drug Formularies.

(Public)

Sponsors: Senators Forrester, Purcell; and Carpenter.

Referred to: Insurance.

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HEALTH BENEFIT PLANS TO COVER NONFORMULARY DRUGS AND DEVICES WHEN MEDICALLY NECESSARY.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following section to read:

**"§ 58-3-221. Access to nonformulary prescription drugs.**

(a) If an insurer maintains one or more restrictive formularies for prescription drugs or devices, then the insurer shall do the following:

(1) Disseminate to participating providers and pharmacists the complete drug and devices formulary or formularies maintained by the insurer, including a list of the devices and prescription drugs on the formulary by major therapeutic category that specifies whether a particular drug or device is preferred over other drugs or devices.

(2) Establish and maintain an expeditious process or procedure that allows an enrollee to obtain, without penalty or additional cost-sharing beyond that provided for in the health benefit plan, coverage for a specific nonformulary drug or device determined to be medically necessary and appropriate by the primary care physician without prior approval from the insurer.

1 (b) An insurer may not void a contract or refuse to renew a contract between the  
2 insurer and a prescribing provider because the prescribing provider has prescribed a  
3 medically necessary and appropriate nonformulary drug or device as provided in this  
4 section.

5 (c) As used in this section:

6 (1) 'Health benefit plan' means an accident and health insurance policy or  
7 certificate; a nonprofit hospital or medical service corporation contract;  
8 a health maintenance organization subscriber contract; a plan provided  
9 by a multiple employer welfare arrangement; or a plan provided by  
10 another benefit arrangement, to the extent permitted by the Employee  
11 Retirement Income Security Act of 1974, as amended, or by any waiver  
12 of or other exception to that Act provided under federal law or  
13 regulation. 'Health benefit plan' does not mean any plan implemented or  
14 administered by the North Carolina Department of Health and Human  
15 Services or the United States Department of Health and Human  
16 Services, or any successor agency, or its representatives. 'Health benefit  
17 plan' also does not mean any of the following kinds of insurance:

18 a. Accident.

19 b. Credit.

20 c. Disability income.

21 d. Long-term care or nursing home care.

22 e. Medicare supplement.

23 f. Specified disease.

24 g. Dental or vision.

25 h. Coverage issued as a supplement to liability insurance.

26 i. Workers' compensation.

27 j. Medical payments under automobile or homeowners.

28 k. Hospital income or indemnity.

29 l. Insurance under which benefits are payable with or without  
30 regard to fault and that are statutorily required to be contained in  
31 any liability policy or equivalent self-insurance.

32 (2) 'Insurer' means an entity that writes a health benefit plan and that is an  
33 insurance company subject to this Chapter, a service corporation  
34 organized under Article 65 of this Chapter, a health maintenance  
35 organization organized under Article 67 of this Chapter, or a multiple  
36 employer welfare arrangement under Article 49 of this Chapter."

37 Section 2. This act is effective when it becomes law and applies to health  
38 benefit plans that are delivered, issued for delivery, or renewed on and after January 1,  
39 2000. For purposes of this act, renewal of a health benefit policy, contract, or plan is  
40 presumed to occur on each anniversary of the date on which coverage was first effective  
41 on the person or persons covered by the health benefit plan.