

1 SB427
2 165537-4
3 By Senator Bussman
4 RFD: Health and Human Services
5 First Read: 30-APR-15

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8 SYNOPSIS: This bill would prohibit certain individual
9 and group benefit plans executed or renewed in this
10 state from requiring a covered individual to first
11 use an opioid analgesic drug product without
12 abuse-deterrence labeling claims before it will
13 cover a prescription for an abuse-deterrent opioid
14 analgesic drug product.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To provide that certain health benefit plans may not
21 require an individual to use an opioid analgesic drug product
22 without abuse-deterrence before covering a prescription for
23 abuse-deterrent opioid analgesic drug products; and for those
24 purposes to amend Sections 10A-20-6.16 and 27-21A-23, Code of
25 Alabama 1965, as amended by Act 2014-324, 2014 Regular
26 Session, relating to applicability of insurance laws to
27 certain health service plans.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) For purposes of this section, the
3 following words have the following meanings:

4 (1) ABUSE-DETERRENT OPIOID ANALGESIC DRUG PRODUCT. A
5 brand or generic opioid analgesic drug product approved by the
6 U.S. Food and Drug Administration (FDA) with abuse-deterrence
7 labeling claims that indicate the drug product is expected to
8 result in a meaningful reduction in abuse.

9 (2) COVERED INDIVIDUAL. An individual covered by
10 either an individual health benefit plan or a group health
11 benefit plan or the beneficiary of a government health program
12 that offers comprehensive health insurance coverage or
13 coverage for prescription drugs.

14 (3) HEALTH BENEFIT PLAN. An individual or group
15 insurance policy that covers hospital, medical, or surgical
16 expenses, health maintenance organizations, preferred provider
17 organizations, medical service organizations,
18 physician-hospital organizations, or any other person, firm,
19 corporation, joint venture, or other similar business entity
20 that pays for, purchases, or furnishes health care services to
21 patients, insureds, or beneficiaries in this state. For the
22 purposes of this act, a health benefit plan located or
23 domiciled outside of the State of Alabama is deemed to be
24 subject to this act if it receives, processes, adjudicates,
25 pays, or denies claims for health care services submitted by
26 or on behalf of patients, insureds, or beneficiaries who
27 reside in the State of Alabama or who receive health care

1 services in the State of Alabama. The term includes, but is not
2 limited to, entities created pursuant to Article 6, Chapter
3 20, Title 10A, Code of Alabama 1975.

4 (4) HEALTH INSURER. Any entity licensed or
5 authorized to sell insurance policies offering a health
6 benefit plan or an entity that provides health care coverage,
7 including a pharmacy benefit manager that administers the
8 pharmacy benefit for an otherwise covered entity.

9 (5) OPIOID ANALGESIC DRUG PRODUCT. A drug product in
10 the opioid analgesic drug class prescribed to treat moderate
11 to severe pain or other conditions, whether in immediate
12 release or extended release/long-acting form and whether or
13 not combined with other drug substances to form a single drug
14 product or dosage form.

15 (b) A health insurer or government program shall not
16 require that a covered individual first use an opioid
17 analgesic drug product without abuse-deterrence labeling
18 claims before providing coverage for an abuse-deterrent opioid
19 analgesic drug product.

20 (c) A health insurer or government program may not
21 create disincentives for prescribers or dispensers to
22 discourage the prescribing or dispensing of abuse-deterrent
23 opioid analgesic drug products.

24 (d) This section shall not prohibit a health insurer
25 or government program from using utilization review, including
26 prior authorization, for abuse-deterrent opioid analgesic drug
27 products provided that the same utilization review

1 requirements are applied to all opioid analgesic drug
2 products.

3 Section 2. Sections 10A-20-6.16 and 27-21A-23, Code
4 of Alabama 1975, as amended by Act 2014-324, 2014 Regular
5 Session, are amended to read as follows:

6 "§10A-20-6.16.

7 "(a) No statute of this state applying to insurance
8 companies shall be applicable to any corporation organized
9 under this article and amendments thereto or to any contract
10 made by the corporation; except the corporation shall be
11 subject to the following:

12 "(1) The provisions regarding annual premium tax to
13 be paid by insurers on insurance premiums.

14 "(2) Chapter 55 of Title 27, regarding the
15 prohibition of unfair discriminatory acts by insurers on the
16 basis of an applicant's or insured's abuse status.

17 "(3) The Medicare Supplement Minimum Standards set
18 forth in Article 2 of Chapter 19 of Title 27, and Long-Term
19 Care Insurance Policy Minimum Standards set forth in Article 3
20 of Chapter 19 of Title 27.

21 "(4) Section 27-1-17, requiring insurers and health
22 plans to pay health care providers in a timely manner.

23 "(5) Chapter 56 of Title 27, regarding the Access to
24 Eye Care Act.

25 "(6) Rules promulgated by the Commissioner of
26 Insurance pursuant to Sections 27-7-43 and 27-7-44.

27 "(7) Chapter 54 of Title 27.

1 "(8) Chapter 57 of Title 27, requiring coverage to
2 be offered for the payment of colorectal cancer examinations
3 for covered persons who are 50 years of age or older, or for
4 covered persons who are less than 50 years of age and at high
5 risk for colorectal cancer according to current American
6 Cancer Society colorectal cancer screening guidelines.

7 "(9) Chapter 58 of Title 27, requiring that policies
8 and contracts including coverage for prostate cancer early
9 detection be offered, together with identification of
10 associated costs.

11 "(10) Chapter 59 of Title 27, requiring that
12 policies and contracts including coverage for chiropractic be
13 offered, together with identification of associated costs.

14 "(11) Chapter 54A of Title 27, requiring that
15 policies and contracts to offer coverage for certain treatment
16 for Autism Spectrum Disorder under certain conditions.

17 "(12) Chapter 12A of Title 27.

18 "(13) Chapter 2B of Title 27.

19 "(14) Chapter 29 of Title 27.

20 "(15) Section 1 of the act adding this subdivision
21 relating to abuse-deterrent opioid analgesic drug products.

22 "(b) The provisions in subsection (a) that require
23 specific types of coverage to be offered or provided shall not
24 apply when the corporation is administering a self-funded
25 benefit plan or similar plan, fund, or program that it does
26 not insure.

27 "§27-21A-23.

1 "(a) Except as otherwise provided in this chapter,
2 provisions of the insurance law and provisions of health care
3 service plan laws shall not be applicable to any health
4 maintenance organization granted a certificate of authority
5 under this chapter. This provision shall not apply to an
6 insurer or health care service plan licensed and regulated
7 pursuant to the insurance law or the health care service plan
8 laws of this state except with respect to its health
9 maintenance organization activities authorized and regulated
10 pursuant to this chapter.

11 "(b) Solicitation of enrollees by a health
12 maintenance organization granted a certificate of authority
13 shall not be construed to violate any provision of law
14 relating to solicitation or advertising by health
15 professionals.

16 "(c) Any health maintenance organization authorized
17 under this chapter shall not be deemed to be practicing
18 medicine and shall be exempt from the provisions of Section
19 34-24-310, et seq., relating to the practice of medicine.

20 "(d) No person participating in the arrangements of
21 a health maintenance organization other than the actual
22 provider of health care services or supplies directly to
23 enrollees and their families shall be liable for negligence,
24 misfeasance, nonfeasance, or malpractice in connection with
25 the furnishing of such services and supplies.

1 "(e) Nothing in this chapter shall be construed in
2 any way to repeal or conflict with any provision of the
3 certificate of need law.

4 "(f) Notwithstanding the provisions of subsection
5 (a), a health maintenance organization shall be subject to all
6 of the following:

7 "(1) Section 27-1-17.

8 "(2) Chapter 56, regarding the Access to Eye Care
9 Act.

10 "(3) Chapter 54, regarding mental illness coverage.

11 "(4) Chapter 57, requiring coverage to be offered
12 for the payment of colorectal cancer examinations for covered
13 persons who are 50 years of age or older, or for covered
14 persons who are less than 50 years of age and at high risk for
15 colorectal cancer according to current American Cancer Society
16 colorectal cancer screening guidelines.

17 "(5) Chapter 58, requiring that policies and
18 contracts including coverage for prostate cancer early
19 detection be offered, together with identification of
20 associated costs.

21 "(6) Chapter 59, requiring that policies and
22 contracts including coverage for chiropractic be offered,
23 together with identification of associated costs.

24 "(7) Rules promulgated by the Commissioner of
25 Insurance pursuant to Sections 27-7-43 and 27-7-44.

26 "(8) Chapter 12A.

1 "(9) Chapter 54A, requiring policies and contracts
2 to offer coverage for certain treatment for Autism Spectrum
3 Disorder under certain conditions.

4 "(10) Chapter 2B, regarding risk-based capital.

5 "(11) Chapter 29, regarding insurance holding
6 company systems.

7 "(12) Section 1 of the act adding this subdivision
8 relating to abuse-deterrent opioid analgesic drug products."

9 Section 3. This act shall become effective on
10 January 1, 2016.