

REFERENCE TITLE: pharmacy benefits; coverage; exemptions

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1164

Introduced by
Senators Shamp: Burch

AN ACT

AMENDING TITLE 20, CHAPTER 25, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 20-3335; RELATING TO PHARMACY BENEFIT MANAGERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 25, article 2, Arizona Revised
3 Statutes, is amended by adding section 20-3335, to read:

4 20-3335. Pharmacy benefit managers; prescribing; coverage
5 exemption determination process; enforcement;
6 definitions

7 A. IF A PHARMACY BENEFIT MANAGER ENTERS INTO AN AGREEMENT WITH A
8 HEALTH CARE INSURER TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES TO
9 COVERED INDIVIDUALS, THE PHARMACY BENEFIT MANAGER, ON BEHALF OF THE
10 PHARMACY BENEFIT MANAGER OR A HEALTH CARE INSURER:

11 1. MAY NOT LIMIT OR EXCLUDE COVERAGE OF A PRESCRIPTION DRUG FOR ANY
12 COVERED INDIVIDUAL WHO IS MEDICALLY STABLE ON A SPECIFIC PRESCRIPTION DRUG
13 AS DETERMINED BY THE COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE
14 PROFESSIONAL, IF BOTH OF THE FOLLOWING APPLY:

15 (a) THE PRESCRIPTION DRUG WAS PREVIOUSLY APPROVED BY THE PHARMACY
16 BENEFIT MANAGER OR HEALTH CARE INSURER FOR COVERAGE FOR THE COVERED
17 INDIVIDUAL.

18 (b) THE COVERED INDIVIDUAL CONTINUES TO BE AN ENROLLEE OF THE
19 HEALTH CARE INSURER THAT THE PHARMACY BENEFIT MANAGER HAS CONTRACTED WITH
20 TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES.

21 2. SHALL CONTINUE COVERAGE OF A COVERED INDIVIDUAL'S PRESCRIPTION
22 DRUG AS DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION THROUGH THE LAST DAY
23 OF THE COVERED INDIVIDUAL'S ELIGIBILITY UNDER THE COVERED INDIVIDUAL'S
24 HEALTH BENEFIT PLAN, INCLUDING ANY OPEN ENROLLMENT PERIOD.

25 B. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 1 OF THIS SECTION, A
26 PHARMACY BENEFIT MANAGER, ON BEHALF OF THE PHARMACY BENEFIT MANAGER OR A
27 HEALTH CARE INSURER, MAY NOT DO ANY OF THE FOLLOWING:

28 1. LIMIT OR REDUCE THE MAXIMUM COVERAGE OF PRESCRIPTION DRUG
29 BENEFITS.

30 2. INCREASE COST SHARING FOR A COVERED PRESCRIPTION DRUG.

31 3. MOVE A PRESCRIPTION DRUG TO A MORE RESTRICTIVE FORMULARY TIER.

32 4. REMOVE A PRESCRIPTION DRUG FROM A FORMULARY UNLESS EITHER OF THE
33 FOLLOWING APPLIES:

34 (a) THE UNITED STATES FOOD AND DRUG ADMINISTRATION REVOKES APPROVAL
35 FOR OR REMOVES A PRESCRIPTION DRUG FROM THE PRESCRIPTION DRUG MARKET.

36 (b) THE PRESCRIPTION DRUG MANUFACTURER NOTIFIES THE UNITED STATES
37 FOOD AND DRUG ADMINISTRATION OF A MANUFACTURING DISCONTINUATION OR A
38 POTENTIAL DISCONTINUATION, AS REQUIRED BY SECTION 506C OF THE FEDERAL
39 FOOD, DRUG, AND COSMETIC ACT.

40 C. A PRESCRIPTION COVERAGE EXEMPTION DETERMINATION PROCESS IS
41 AVAILABLE TO COVERED INDIVIDUALS AND THE PRESCRIBING HEALTH CARE
42 PROFESSIONAL TO ENSURE CONTINUITY OF CARE AS FOLLOWS:

43 1. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
44 REVIEW AGENT THAT IS CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT
45 SERVICES FOR THE HEALTH CARE INSURER SHALL PROVIDE A COVERED INDIVIDUAL

1 AND PRESCRIBING HEALTH CARE PROFESSIONAL WITH ACCESS TO A CLEAR AND
2 CONVENIENT PROCESS TO REQUEST A COVERAGE EXEMPTION DETERMINATION. A
3 HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION REVIEW AGENT
4 THAT IS CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES FOR THE
5 HEALTH CARE INSURER MAY USE ITS EXISTING MEDICAL EXCEPTIONS PROCESS TO
6 SATISFY THIS REQUIREMENT IF THE MEDICAL EXCEPTIONS PROCESS IS CONSISTENT
7 WITH THE REQUIREMENTS PRESCRIBED IN THIS SECTION.

8 2. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
9 REVIEW AGENT SHALL RESPOND TO A COVERAGE EXEMPTION DETERMINATION REQUEST
10 WITHIN SEVENTY-TWO HOURS AFTER RECEIPT. IN CASES WHERE EXIGENT
11 CIRCUMSTANCES EXIST, THE HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR
12 UTILIZATION REVIEW AGENT SHALL RESPOND WITHIN TWENTY-FOUR HOURS AFTER
13 RECEIPT IF PROVIDED WITH SUFFICIENT JUSTIFICATION AND ANY SUPPORTING
14 CLINICAL DOCUMENTATION. IF A RESPONSE BY THE HEALTH CARE INSURER,
15 PHARMACY BENEFIT MANAGER OR UTILIZATION REVIEW AGENT IS NOT RECEIVED
16 WITHIN THE APPLICABLE TIME FRAME, THE COVERAGE EXEMPTION IS AUTOMATICALLY
17 GRANTED.

18 3. A COVERAGE EXEMPTION SHALL BE EXPEDITIOUSLY GRANTED FOR A
19 DISCONTINUED HEALTH BENEFIT PLAN, INCLUDING A HEALTH BENEFIT PLAN FROM AN
20 INDIVIDUAL'S PRIOR PLAN YEAR, IF A COVERED INDIVIDUAL ENROLLS IN A
21 COMPARABLE PLAN OFFERED BY THE SAME GROUP HEALTH PLAN OFFERING GROUP OR
22 INDIVIDUAL HEALTH INSURANCE COVERAGE, AND ALL OF THE FOLLOWING CONDITIONS
23 APPLY:

24 (a) THE COVERED INDIVIDUAL IS MEDICALLY STABLE ON A PRESCRIPTION
25 DRUG AS DETERMINED BY THE COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE
26 PROFESSIONAL.

27 (b) THE PRESCRIBING HEALTH CARE PROFESSIONAL CONTINUES TO PRESCRIBE
28 THE DRUG FOR THE COVERED INDIVIDUAL FOR THE COVERED INDIVIDUAL'S MEDICAL
29 CONDITION.

30 (c) IN COMPARISON TO THE DISCONTINUED HEALTH BENEFIT PLAN, THE NEW
31 HEALTH BENEFIT PLAN DOES ANY OF THE FOLLOWING:

32 (i) LIMITS OR REDUCES THE MAXIMUM COVERAGE OF PRESCRIPTION DRUG
33 BENEFITS.

34 (ii) INCREASES COST SHARING FOR THE PRESCRIPTION DRUG.

35 (iii) MOVES THE PRESCRIPTION DRUG TO A MORE RESTRICTIVE TIER IF THE
36 CARRIER, INSURER OR PHARMACY BENEFIT MANAGER USES A FORMULARY WITH TIERS.

37 (iv) EXCLUDES THE PRESCRIPTION DRUG FROM THE CARRIER'S, INSURER'S
38 OR PHARMACY BENEFIT MANAGER'S FORMULARY.

39 4. A COVERAGE EXEMPTION SHALL BE EXPEDITIOUSLY GRANTED FOR A
40 COVERED INDIVIDUAL WITHOUT A DISCONTINUED HEALTH BENEFIT PLAN IF THE
41 COVERED INDIVIDUAL HAS PREVIOUSLY RECEIVED THE PRESCRIPTION DRUG BY ANY
42 MEANS, INCLUDING PARTICIPATION IN A CLINICAL TRIAL, THIRD-PARTY PATIENT
43 ASSISTANCE OR OTHER FINANCIAL SUPPORT PROGRAMS, AND ALL OF THE FOLLOWING
44 CONDITIONS APPLY:

1 (a) THE COVERED INDIVIDUAL IS MEDICALLY STABLE ON A PRESCRIPTION
2 DRUG AS DETERMINED BY THE COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE
3 PROFESSIONAL.

4 (b) THE PRESCRIBING HEALTH CARE PROFESSIONAL CONTINUES TO PRESCRIBE
5 THE DRUG FOR THE COVERED INDIVIDUAL FOR THE COVERED INDIVIDUAL'S MEDICAL
6 CONDITION.

7 (c) THE PRESCRIPTION DRUG WAS NOT PROVIDED AS A PHARMACEUTICAL
8 SAMPLE.

9 5. IF A REQUEST FOR A COVERAGE EXEMPTION IS DENIED, THE HEALTH CARE
10 INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION REVIEW AGENT CONTRACTED
11 TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES SHALL PROVIDE THE COVERED
12 INDIVIDUAL OR THE COVERED INDIVIDUAL'S PRESCRIBING HEALTH CARE
13 PROFESSIONAL WITH THE REASONS FOR THE DENIAL AND INFORMATION REGARDING THE
14 PROCEDURE TO APPEAL THE DENIAL. A COVERED INDIVIDUAL OR THE COVERED
15 INDIVIDUAL'S AUTHORIZED REPRESENTATIVE MAY APPEAL ANY DETERMINATION TO
16 DENY A COVERAGE EXEMPTION.

17 6. A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR UTILIZATION
18 REVIEW AGENT CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES
19 MUST UPHOLD OR REVERSE A DETERMINATION TO DENY A COVERAGE EXEMPTION WITHIN
20 SEVENTY-TWO HOURS AFTER RECEIVING AN APPEAL OF DENIAL. IN CASES WHERE
21 EXIGENT CIRCUMSTANCES EXIST, A HEALTH CARE INSURER OR PHARMACY BENEFIT
22 MANAGER CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES SHALL
23 UPHOLD OR REVERSE A DETERMINATION TO DENY A COVERAGE EXEMPTION WITHIN
24 TWENTY-FOUR HOURS AFTER RECEIPT IF PROVIDED WITH SUFFICIENT JUSTIFICATION
25 AND ANY SUPPORTING CLINICAL DOCUMENTATION. IF THE DETERMINATION TO DENY A
26 COVERAGE EXEMPTION IS NOT UPHOLD OR REVERSED ON APPEAL WITHIN THE
27 APPLICATION TIME PERIOD, THE DENIAL IS CONSIDERED REVERSED AND THE
28 COVERAGE EXEMPTION IS AUTOMATICALLY APPROVED.

29 7. IF A DETERMINATION TO DENY A COVERAGE EXEMPTION IS UPHELD ON
30 APPEAL, THE DENIAL SHALL BE CONSIDERED A FINAL AGENCY ACTION AND THE
31 COVERED INDIVIDUAL OR COVERED INDIVIDUAL'S AUTHORIZED REPRESENTATIVE MAY
32 CHALLENGE THAT DETERMINATION IN STATE COURT.

33 D. THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

34 1. PREVENT A HEALTH CARE PROFESSIONAL FROM PRESCRIBING ANOTHER DRUG
35 COVERED BY THE CARRIER, THE INSURER OR THE PHARMACY BENEFIT MANAGER
36 CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES THAT THE HEALTH
37 CARE PROFESSIONAL DEEMS MEDICALLY NECESSARY FOR THE COVERED INDIVIDUAL.

38 2. PREVENT A HEALTH CARE INSURER OR PHARMACY BENEFIT MANAGER
39 CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT SERVICES FROM EITHER:

40 (a) ADDING A PRESCRIPTION DRUG TO ITS FORMULARY.

41 (b) REMOVING A PRESCRIPTION DRUG FROM ITS FORMULARY IF THE DRUG
42 MANUFACTURER HAS REMOVED THE DRUG FOR SALE IN THE UNITED STATES.

43 E. IF A HEALTH CARE INSURER, PHARMACY BENEFIT MANAGER OR
44 UTILIZATION REVIEW AGENT CONTRACTED TO PROVIDE PHARMACY BENEFIT MANAGEMENT
45 SERVICES VIOLATES THIS SECTION, THE DIRECTOR HAS AUTHORITY TO TAKE ANY

1 ENFORCEMENT ACTION AGAINST THAT HEALTH CARE INSURER, PHARMACY BENEFIT
2 MANAGER OR UTILIZATION REVIEW AGENT.

3 F. A POLICY THAT IS ISSUED OR RENEWED BY A DISABILITY INSURER DOES
4 NOT INCLUDE A POLICY THAT PROVIDES LIMITED BENEFIT COVERAGE AS DEFINED IN
5 SECTION 20-1137.

6 G. FOR THE PURPOSES OF THIS SECTION:

7 1. "COVERAGE EXEMPTION" MEANS THAT IMMEDIATE COVERAGE OF A HEALTH
8 CARE PROVIDER'S SELECTED PRESCRIPTION DRUG IS GRANTED.

9 2. "EXIGENT CIRCUMSTANCES" MEANS A HEALTH CARE INSURER'S, PHARMACY
10 BENEFIT MANAGER'S OR UTILIZATION REVIEW AGENT'S NONEXPEDITED ACTION ON A
11 COVERAGE EXEMPTION REQUEST COULD SERIOUSLY JEOPARDIZE THE INSURED'S,
12 ENROLLEE'S OR SUBSCRIBER'S LIFE, HEALTH OR ABILITY TO REGAIN MAXIMUM
13 FUNCTION OR CAUSE A SIGNIFICANT NEGATIVE CHANGE IN MEDICAL CONDITION.

14 3. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION
15 20-2501.

16 4. "HEALTH CARE PLAN" MEANS A POLICY, CONTRACT OR EVIDENCE OF
17 COVERAGE THAT A HEALTH CARE INSURER ISSUES TO AN INSURED, ENROLLEE OR
18 SUBSCRIBER.

19 5. "PHARMACEUTICAL SAMPLE" MEANS A PRESCRIPTION DRUG THAT IS
20 PACKAGED IN SMALL QUANTITIES THAT ARE CONSISTENT WITH LIMITED DOSAGE
21 THERAPY OF THE PARTICULAR DRUG AND THAT:

22 (a) IS INTENDED TO EITHER:

23 (i) PROVIDE THE HEALTH CARE PROVIDER WITH A DRUG FOR THE IMMEDIATE
24 NEED OF A PATIENT FOR A SHORT-TERM TRIAL PURPOSE.

25 (ii) BE PROVIDED TO THE PATIENT UNTIL THE PATIENT CAN FILL THE
26 PRESCRIPTION DRUG AT A PHARMACY.

27 (b) IS NOT INTENDED TO BE SOLD.

28 6. "UTILIZATION REVIEW AGENT" HAS THE SAME MEANING PRESCRIBED IN
29 SECTION 20-2530.

30 Sec. 2. Applicability

31 This act applies to contracts entered into, amended, extended or
32 renewed on or after December 31, 2024.