

PROPOSED
SENATE AMENDMENTS TO S.B. 1164
(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 20-841.05, Arizona Revised Statutes, is amended
3 to read:

4 20-841.05. Prescription drug formulary; definitions

5 A. A corporation with a prescription drug benefit that uses a drug
6 formulary as a component of the subscription contract shall provide to its
7 subscribers notice in the contract and any disclosure form regarding the
8 applicable drug formulary. The corporation shall write the notice so that
9 the language and format are easy to understand. The notice shall include
10 an explanation of what a drug formulary is, how the corporation determines
11 which prescription drugs are included or excluded and how often the
12 corporation reviews the contents of the drug formulary.

13 B. A corporation described in subsection A of this section shall:

14 1. Develop and maintain a process by which health care professionals
15 may request authorization for a medically necessary formulary or
16 nonformulary prescription drug during nonbusiness hours. If the
17 corporation does not maintain that process, the corporation shall reimburse
18 a subscriber for the subscriber's out-of-pocket expense minus any
19 deductible or copayment for a prescription drug that was purchased by the
20 subscriber without preauthorization but that was later approved by the
21 corporation.

22 2. Develop and maintain a process by which health care professionals
23 may request authorization for medically necessary nonformulary prescription

1 drugs. The corporation shall approve an alternative prescription drug when
2 ~~either~~ ANY of the following conditions is met:

3 (a) The equivalent prescription drug on the formulary has been
4 ineffective in the treatment of the subscriber's disease or condition.

5 (b) The equivalent prescription drug on the formulary has caused an
6 adverse or harmful reaction in the subscriber.

7 (c) THE SUBSCRIBER HAS PREVIOUSLY BEEN APPROVED TO RECEIVE THE
8 NONFORMULARY PRESCRIPTION DRUG BY THE CURRENT OR PREVIOUS HEALTH CARE
9 INSURER OR PHARMACY BENEFIT MANAGER AND BOTH OF THE FOLLOWING CONDITIONS
10 APPLY:

11 (i) THE SUBSCRIBER IS MEDICALLY STABLE ON A PRESCRIPTION DRUG AS
12 DETERMINED BY THE SUBSCRIBER'S PRESCRIBING HEALTH CARE PROFESSIONAL.

13 (ii) THE PRESCRIBING HEALTH CARE PROFESSIONAL CONTINUES TO PRESCRIBE
14 THE DRUG FOR THE SUBSCRIBER'S COVERED MEDICAL CONDITION.

15 C. If the subscriber's pharmacy benefit plan does not require
16 authorization, subsection B, paragraph 2 of this section does not apply.

17 D. If the subscriber's treating health care professional makes a
18 determination that the subscriber meets any of the conditions described in
19 subsection B of this section, any denial to cover the nonformulary
20 prescription drug by the corporation shall be made in writing by a licensed
21 pharmacist or medical director. The written denial shall contain an
22 explanation of the denial, including the medical or pharmacological reasons
23 why the authorization was denied, and INFORMATION ABOUT HOW A SUBSCRIBER
24 MAY APPEAL THE DENIAL. The licensed pharmacist or medical director who
25 made the denial shall sign it. The corporation shall send a copy of the
26 written denial to the subscriber's treating health care professional who
27 requested the authorization. The corporation shall maintain copies of all
28 written denials and shall make the copies available to the department for
29 inspection during regular business hours. A SUBSCRIBER OR THE SUBSCRIBER'S
30 AUTHORIZED REPRESENTATIVE MAY APPEAL ANY DETERMINATION TO DENY COVERAGE.

1 E. IF THE CORPORATION AUTHORIZES A FORMULARY EXEMPTION FOR A
2 SUBSCRIBER PURSUANT TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, THAT
3 AUTHORIZATION SHALL BE IN EFFECT UNTIL THE END OF THE SUBSCRIBER'S PLAN
4 YEAR. THE APPROVAL OF THE FORMULARY EXEMPTION SHALL BE IN WRITING AND
5 DELIVERED TO THE SUBSCRIBER AND THE SUBSCRIBER'S TREATING HEALTH CARE
6 PROFESSIONAL.

7 ~~F.~~ F. Any subscription contract that is issued, amended or renewed
8 by a corporation and that includes prescription drug benefits shall not
9 limit or exclude coverage for at least sixty days after the corporation's
10 notice or the pharmacy's notice pursuant to subsection ~~F~~ G of this section
11 to the subscriber, whichever occurs first, for a prescription drug for a
12 subscriber to refill a previously prescribed drug if the prescription drug
13 was previously approved for coverage under the drug formulary or pharmacy
14 benefit plan for the subscriber's medical condition and the health care
15 professional continues to prescribe the prescription drug for the same
16 medical condition. The limitation or exclusion prohibited by this
17 subsection applies if the prescription drug is appropriately prescribed and
18 is considered safe and effective for treating the subscriber's medical
19 condition. This subsection does not prohibit the health care professional
20 from prescribing another prescription drug that is covered by the drug
21 formulary and that is medically appropriate for the subscriber, including
22 generic drug substitutions.

23 ~~F.~~ G. A corporation shall provide written notice of the removal of
24 any prescription drug from the corporation's drug formulary to each
25 pharmacy vendor with which the corporation has a contract. On notice from
26 the corporation, the contracted pharmacy vendor at the point of dispensing
27 a prescription drug that has been removed from the drug formulary shall
28 notify the subscriber by means of a verbal consultation or other direct
29 communication with a subscriber that the subscriber may be required to
30 consult with a health care professional to obtain a new prescription for a
31 replacement drug after the sixty day period prescribed in subsection ~~F~~ F
32 of this section. The notice prescribed in this subsection is not required

1 if the pharmacy vendor is a pharmacy that is owned by the corporation or a
2 corporate affiliate of that corporation.

3 ~~H.~~ H. This section does not:

4 1. Prohibit a corporation from applying deductibles, coinsurance or
5 other cost containment or quality assurance measures.

6 2. Apply to a corporation that provides a multitiered benefit plan
7 that allows access to prescription drugs without authorization by the
8 corporation.

9 3. Apply to any corporation that holds a certificate of authority to
10 operate either as a dental service corporation or an optometric service
11 corporation.

12 ~~H.~~ I. For the purposes of this section:

13 1. "Health care professional" means a person who has an active
14 nonrestricted license pursuant to title 32 and is authorized to write drug
15 prescriptions to treat medical conditions.

16 2. "Prescription drug" means any prescription medication as defined
17 in section 32-1901 that is prescribed by a health care professional to a
18 subscriber to treat the subscriber's condition.

19 Sec. 2. Section 20-846, Arizona Revised Statutes, is amended to
20 read:

21 20-846. Individual health insurance policies; mandatory
22 coverage exemption; definitions

23 A. A hospital service corporation, medical service corporation or
24 hospital and medical service corporation may issue a subscription contract
25 to an uninsured individual that is not subject to the requirements of any
26 of the following:

27 1. Section 20-461, subsection A, paragraph 17 and subsection B.

28 2. Section 20-826, subsections F, J, K, U, V, W and X.

29 3. Section 20-841, subsections A and C.

30 4. Sections 20-841.01, 20-841.02, 20-841.03, 20-841.04, 20-841.06,
31 20-841.07 and 20-841.08.

32 5. Section 20-841.05, subsections B and ~~F.~~ F.

1 B. For the purposes of this section:

2 1. "Health insurance coverage":

3 (a) Means a health care plan or arrangement that pays for or
4 furnishes medical or health services and that is issued by a disability
5 insurer, group disability insurer, blanket disability insurer, health care
6 services organization, hospital service corporation, medical service
7 corporation or medical, hospital, dental and optometric service corporation
8 or a similar entity in another state.

9 (b) Includes a self-insured or self-funded employee benefit plan or
10 multiemployer employee benefit plan created pursuant to 29 United States
11 Code section 186(c) if the regulation of that plan is preempted by section
12 514(b) of the employee retirement ~~insurance~~ INCOME security act of 1974 (29
13 United States Code section 1144(b)).

14 (c) Does not include limited benefit coverage as defined in section
15 20-1137.

16 2. "Uninsured individual" means a person who has either:

17 (a) Not had health insurance coverage for the ninety days
18 immediately before the effective date of coverage issued pursuant to this
19 section, except that this requirement does not apply at the renewal of
20 coverage pursuant to this section.

21 (b) Lost health insurance coverage in one of the following ways
22 within ninety days immediately before the effective date of coverage issued
23 pursuant to this section:

24 (i) The individual left a job that provided health insurance
25 coverage.

26 (ii) The individual's employer discontinued offering health
27 insurance coverage.

28 (iii) The individual exhausted continuation coverage under a COBRA
29 continuation provision as defined in section 20-2301.

30 (iv) The individual's family health insurance coverage was
31 discontinued due to the death of a spouse or a divorce.

1 (v) The individual attained the maximum age for dependent coverage
2 under a health insurance policy.

3 (vi) The individual's participation in a public health care program
4 was discontinued."

5 Renumber to conform

6 Page 1, line 23, after "~~INDIVIDUAL'S~~" strike remainder of line

7 Strike line 24, insert "PLAN YEAR."

8 Line 25, strike ", PARAGRAPH 1"

9 Between lines 39 and 40, insert:

10 "C. A PHARMACY BENEFIT MANAGER OR HEALTH CARE INSURER SHALL PROVIDE
11 WRITTEN NOTICE OF THE REMOVAL FROM OR AN INCREASE IN THE COST SHARING FOR
12 ANY PRESCRIPTION DRUG ON THE DRUG FORMULARY TO EACH IMPACTED COVERED
13 INDIVIDUAL AT LEAST SIXTY DAYS BEFORE THE PLAN YEAR ENDS. THE NOTICE SHALL
14 SET FORTH THE PROCESS BY WHICH THE COVERED INDIVIDUAL'S HEALTH CARE
15 PROFESSIONAL MAY REQUEST AUTHORIZATION FOR THE CONTINUED USE OF THE
16 NONFORMULARY PRESCRIPTION DRUG IF THE MEDICAL PRESCRIBER DETERMINES THAT
17 THE COVERED INDIVIDUAL:

18 1. HAS PREVIOUSLY BEEN APPROVED BY THE COVERED INDIVIDUAL'S PHARMACY
19 BENEFIT MANAGER OR HEALTH CARE INSURER TO BE TREATED BY THE CURRENT
20 SPECIFIC PRESCRIPTION DRUG OR DRUG REGIMEN.

21 2. IS MEDICALLY STABLE ON THE CURRENT NONFORMULARY DRUG."

22 Reletter to conform

23 Page 2, line 10, after "~~WITHIN~~" strike remainder of line

24 Strike lines 11 through 38, insert "THE TIMELINES OUTLINED IN 45 CODE OF
25 FEDERAL REGULATIONS SECTION 156.122."

26 Renumber to conform

27 Line 39, strike "~~EXPEDITIOUSLY~~"

28 Line 40, after "~~INDIVIDUAL~~" strike remainder of line

29 Strike lines 41 through 44

30 Page 3, strike lines 1 through 32, insert "PURSUANT TO SECTION 20-841.05."

31 Line 39, strike "~~EITHER~~" insert "ANY OF THE FOLLOWING"

32 Between lines 42 and 43, insert:

1 "(c) MAKING ANY FORMULARY CHANGES FOR PATIENTS THAT ARE NOT
2 CURRENTLY STABLE ON A PREVIOUSLY APPROVED PRESCRIPTION DRUG."

3 Page 4, strike lines 9 through 13

4 Renumber to conform

5 Strike lines 19 through 27

6 Renumber to conform

7 Between lines 29 and 30, insert:

8 "Sec. 4. Section 20-2341, Arizona Revised Statutes, is amended to
9 read:

10 20-2341. Uninsured small business health insurance plans;
11 mandatory coverage exemption; definitions

12 A. A policy, subscription contract, contract, plan or evidence of
13 coverage issued to an uninsured small business by a health care insurer is
14 not subject to the requirements of any of the following:

- 15 1. Section 20-461, subsection A, paragraph 17 and subsection B.
- 16 2. Section 20-826, subsection C, paragraph 1.
- 17 3. Section 20-826, subsections F, J, K, U, V, W, X and Y.
- 18 4. Sections 20-841, 20-841.01, 20-841.02, 20-841.03, 20-841.04,
19 20-841.06, 20-841.07 and 20-841.08.
- 20 5. Section 20-841.05, subsections B and ~~E~~ F.
- 21 6. Section 20-1057, subsections C, K, L, Y, Z, AA and BB.
- 22 7. Sections 20-1057.01, 20-1057.03, 20-1057.04, 20-1057.05 and
23 20-1057.08.
- 24 8. Section 20-1057.02, subsection B.
- 25 9. Section 20-1342, subsection A, paragraph 8, subdivision (a).
- 26 10. Section 20-1342, subsection A, paragraphs 11 and 12.
- 27 11. Section 20-1342, subsections H, I, J and K.
- 28 12. Section 20-1342.01.
- 29 13. Sections 20-1376, 20-1376.01, 20-1376.02, 20-1376.03 and
30 20-1376.04.
- 31 14. Section 20-1402, subsection A, paragraph 4, subdivision (a).
- 32 15. Section 20-1402, subsection A, paragraphs 7 and 8.

- 1 16. Section 20-1402, subsections H, I, J, K and L.
- 2 17. Section 20-1404, subsection F, paragraph 1.
- 3 18. Section 20-1404, subsections I, Q, R, S, T and U.
- 4 19. Section 20-1406.
- 5 20. Sections 20-1406.01, 20-1406.02, 20-1406.03 and 20-1406.04.
- 6 21. Section 20-1407.
- 7 22. Section 20-2321.
- 8 23. Section 20-2327.
- 9 24. Section 20-2329.

10 B. Section 20-2304, subsection B does not apply to a policy,
 11 subscription contract, contract, plan or evidence of coverage issued to an
 12 uninsured small business pursuant to subsection A of this section.

13 C. In this article, unless the context otherwise requires:

14 1. "Health care insurer" means a disability insurer, group
 15 disability insurer, blanket disability insurer, health care services
 16 organization, hospital service corporation, medical service corporation or
 17 hospital and medical service corporation.

18 2. "Uninsured small business" means a small employer that did not
 19 provide a health benefits plan for at least ninety days immediately before
 20 the effective date of coverage provided pursuant to this section, except
 21 that this requirement does not apply at the renewal of coverage pursuant to
 22 this section."

- 23 Renumber to conform
- 24 Amend title to conform

~~1164SHAMP.docx~~
~~02/08/2024~~
~~4:24 PM~~
~~C: SK~~

JANAE SHAMP

1164SHAMP.docx
 02/09/2024
 11:34 AM
 MG/cs