

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1143.01 Kristen Forrestal x4217

HOUSE BILL 18-1370

---

HOUSE SPONSORSHIP

Esgar and Singer,

SENATE SPONSORSHIP

Jahn,

---

House Committees

Health, Insurance, & Environment

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING A PROHIBITION AGAINST EXCLUDING A DRUG FROM A  
102 HEALTH COVERAGE PLAN IF THE DRUG WAS APPROVED BY THE  
103 PLAN FOR COVERAGE OF THE COVERED PERSON AT THE TIME  
104 THE COVERED PERSON ENROLLED IN THE PLAN.

---

Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill prohibits a health insurance carrier from excluding or limiting a drug under a health benefit plan and from moving the drug to a disadvantaged tier in the plan formulary if the drug was covered at the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

time the covered person enrolled in the plan. A carrier may not increase the amount that a covered person pays for a copayment, coinsurance, or deductible or set limits while the covered person is covered by the health benefit plan for drugs that were covered when the person became covered under the plan.

If a carrier uses a tiered plan, the carrier may not move a drug to a disadvantaged tier under specified circumstances.

A carrier may limit coverage for a drug or biosimilar product if a provider prescribes a generic drug or biosimilar product to treat the covered person's medical condition instead of the originally-prescribed drug and the covered person agrees.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-147 as  
3 follows:

4 **10-16-147. Approved drugs - continuity of coverage under**  
5 **health coverage plan.** (1) A CARRIER SHALL NOT LIMIT OR EXCLUDE

6 COVERAGE FOR A DRUG FOR A COVERED PERSON'S MEDICAL CONDITION IF:

7 (a) THE DRUG WAS COVERED BY THE HEALTH BENEFIT PLAN AT THE  
8 TIME THE COVERED PERSON ENROLLED IN THE PLAN;

9 (b) THE PRESCRIBING PROVIDER CONTINUES TO PRESCRIBE THE  
10 DRUG FOR THE COVERED PERSON; AND

11 (c) THE DRUG IS SAFE AND EFFECTIVE, AS DETERMINED BY THE  
12 PRESCRIBING PROVIDER, FOR TREATING THE COVERED PERSON'S MEDICAL  
13 CONDITION.

14 (2) A CARRIER SHALL NOT INCREASE THE AMOUNT A COVERED  
15 PERSON PAYS FOR A COPAYMENT, COINSURANCE, OR DEDUCTIBLE FOR A  
16 PRESCRIPTION DRUG BENEFIT OR SET LIMITATIONS ON MAXIMUM  
17 COVERAGE OF PRESCRIPTION DRUG BENEFITS FOR THE PRESCRIBED DRUGS  
18 DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

19 (3) IF A CARRIER USES A TIERED FORMULARY, THE CARRIER SHALL

1 NOT MOVE A DRUG TO A DISADVANTAGED TIER IF:

2 (a) THE DRUG WAS APPROVED FOR THE COVERED PERSON AT THE  
3 TIME THE COVERED PERSON ENROLLED IN THE HEALTH BENEFIT PLAN;

4 (b) THE PRESCRIBING PROVIDER CONTINUES TO PRESCRIBE THE  
5 DRUG; AND

6 (c) THE DRUG IS SAFE AND EFFECTIVE FOR THE COVERED PERSON,  
7 AS DETERMINED BY THE PRESCRIBING PROVIDER.

8 (4) NOTWITHSTANDING SUBSECTIONS (1) AND (2) OF THIS SECTION,  
9 IF A GENERIC DRUG OR BIOSIMILAR PRODUCT THAT IS THERAPEUTICALLY  
10 EQUIVALENT TO THE DRUG PRESCRIBED TO A COVERED PERSON IS  
11 INTRODUCED INTO THE COMMERCIAL MARKET AND THE PRESCRIBING  
12 PROVIDER PRESCRIBES THE GENERIC DRUG OR BIOSIMILAR PRODUCT TO  
13 TREAT THE COVERED PERSON'S MEDICAL CONDITION INSTEAD OF THE  
14 ORIGINALLY PRESCRIBED DRUG, THE CARRIER MAY COMPLY WITH THIS  
15 SECTION BY COVERING THE PRESCRIBED GENERIC DRUG OR BIOSIMILAR  
16 PRODUCT UNDER THE COVERED PERSON'S HEALTH BENEFIT PLAN.

17 **SECTION 2. Act subject to petition - effective date.** This act  
18 takes effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly (August  
20 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
21 referendum petition is filed pursuant to section 1 (3) of article V of the  
22 state constitution against this act or an item, section, or part of this act  
23 within such period, then the act, item, section, or part will not take effect  
24 unless approved by the people at the general election to be held in  
25 November 2018 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.