

CHAPTER 126

INSURANCE

HOUSE BILL 22-1264

BY REPRESENTATIVE(S) Valdez D. and Woodrow, Lynch, Pico, Boesenecker, Esgar, Exum, Jodeh, Snyder;
also SENATOR(S) Moreno and Woodward, Kirkmeyer, Zenzinger, Priola.

AN ACT**CONCERNING UPDATING REFERENCES TO THE FEDERAL FOOD AND DRUG ADMINISTRATION IN THE HEALTH INSURANCE LAW.**

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

SECTION 1. In Colorado Revised Statutes, 10-16-104, **amend** (5.5)(a)(III)(B) and (21)(a) as follows:

10-16-104. Mandatory coverage provisions - definitions - rules.
(5.5) Behavioral, mental health, and substance use disorders - rules.
(a) (III) (B). A health benefit plan subject to this subsection (5.5) must provide coverage without prior authorization for a five-day supply of at least one of the ~~federal food and drug administration-approved~~ FDA-APPROVED drugs for the treatment of opioid dependence; except that this requirement is limited to a first request within a twelve-month period.

(21) Oral anticancer medication. (a) Any health benefit plan that provides coverage for cancer chemotherapy treatment shall provide coverage for prescribed, orally administered anticancer medication that has been approved by the ~~federal food and drug administration~~ FDA and is used to kill or slow the growth of cancerous cells. The orally administered medication shall be provided at a cost to the covered person not to exceed the coinsurance percentage or the copayment amount as is applied to an intravenously administered or an injected cancer medication prescribed for the same purpose. A medication provided pursuant to this subsection (21) shall be prescribed only upon a finding that it is medically necessary by the treating physician for the purpose of killing or slowing the growth of cancerous cells in a manner that is in accordance with nationally accepted standards of medical practice, clinically appropriate in terms of type, frequency, extent site, and duration, and not primarily for the convenience of the patient, physician, or

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

other health-care provider. This subsection (21) does not require the use of orally administered medications as a replacement for other cancer medications. Nothing in this subsection (21) prohibits coverage for oral generic medications in a health benefit plan. Nothing in this subsection (21) prohibits a carrier from applying an appropriate formulary or other clinical management to any medication described in this subsection (21). For the purposes of this subsection (21), the treating physician for a patient covered under a health maintenance organization's health benefit plan shall be a physician who is designated by and affiliated with the health maintenance organization.

SECTION 2. In Colorado Revised Statutes, 10-16-104.6, **amend** (1) introductory portion as follows:

10-16-104.6. Off-label use of cancer drugs. (1) A health benefit plan that provides coverage for prescription drugs shall not limit or exclude coverage for any drug approved by the ~~United States food and drug administration~~ FDA for use in the treatment of cancer on the basis that the drug has not been approved by the ~~United States food and drug administration~~ FDA for the treatment of the specific type of cancer for which the drug is prescribed if:

SECTION 3. In Colorado Revised Statutes, 10-16-112.5, **amend** (7)(c)(I) as follows:

10-16-112.5. Prior authorization for health-care services - disclosures and notice - determination deadlines - criteria - limits and exceptions - definitions - rules. (7) **Definitions.** As used in this section:

(c) "Medical necessity" means a determination by the carrier that a prudent provider would provide a particular covered health-care service to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or symptom in a manner that is:

(I) In accordance with generally accepted standards of medical practice and approved by the ~~federal food and drug administration~~ FDA or other required agency;

SECTION 4. In Colorado Revised Statutes, 10-16-124.7, **amend** (3)(a) as follows:

10-16-124.7. Opioid analgesics with abuse-deterrent properties - study - definitions. (3) As used in this section:

(a) "Abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the ~~United States food and drug administration~~ FDA with abuse-deterrence labeling claims that indicate that the drug product is expected to result in a meaningful reduction in abuse.

SECTION 5. In Colorado Revised Statutes, 10-16-148, **repeal** (2) as follows:

10-16-148. Medication-assisted treatment - limitations on carriers - rules. (2) ~~As used in this section, "FDA" means the food and drug administration in the~~

~~United States department of health and human services:~~

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 25, 2022