S-4593.2

# SUBSTITUTE SENATE BILL 6147

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Rivers, Cleveland, Walsh, Kuderer, Nelson, Carlyle, Angel, Hasegawa, and Keiser)

READ FIRST TIME 02/06/18.

AN ACT Relating to prescription drug insurance continuity of care; adding a new section to chapter 48.43 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** INTENT. The legislature finds that innovation has become a growing tool in modern medicine, which has allowed Washington's citizens to lead a better quality of life. The legislature further finds that these medical innovations are tools that should be encouraged and fostered. The legislature also recognizes that innovation often increases the overall cost of health care, and both costs and innovations should be balanced carefully.

The legislature finds that managing diseases, particularly for chronic or debilitating conditions, is often a difficult process that may require physicians to make several changes to a patient's medication before finding the one that is the most effective for the patient with the least amount of side effects. The legislature finds many patients have been through years of trial-and-error with their health care providers to find the therapy that works for them and on which they are stable.

The legislature further finds that patients' formularies often change during the plan year, which leads to less access, inefficient

use of services, and overall instability of a patient's condition. The legislature further finds that Washington's patients deserve consistent protections that patients enjoy in medicare and other states, which ensures the best use of health care dollars, maintenance of health, and stability of patients.

The legislature further finds that putting the patient first by ensuring access to a recommended course of therapy that the patient has been stabilized on is imperative, especially for patients fighting chronic, debilitating conditions that affect their ability to work or be contributing family or community members. Therefore, it is the intent of the legislature to implement a cost-effective requirement that ensures patients can rely on the prescription formulary they enter into with their insurance carrier through the entirety of the plan year.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for health plans that include prescription drug coverage, an issuer may not, outside of an open enrollment period, deny continued coverage or increase the copayment or coinsurance amount for a prescription drug to a medically stable enrollee if:

(a) The drug had previously been covered by the plan for the enrollee's medical condition during the enrollee's current plan year;

(b) A participating provider continues to prescribe the drug for the enrollee's medical condition and the drug is a maintenance medication or for the treatment of a chronic condition;

(c) The drug is appropriately prescribed and is considered safe and effective for treating the enrollee's medical condition; and

(d) The enrollee continues to be enrolled in the plan.

(2) Nothing in this section prohibits:

(a) The issuer from requiring generic substitution during the current plan year;

(b) The issuer from adding new drugs to its formulary during the current plan year, as long as the changed formulary applies only to new prescriptions and not existing prescriptions in violation of subsection (1) of this section;

(c) A participating prescribing provider from prescribing a different drug that is covered by the plan and medically appropriate for the enrollee;

(d) The issuer from removing a drug from its formulary for reasons of patient safety concerns, drug recall, or removal from the market as determined by the United States food and drug administration; or

(e) The ability of a pharmacist to substitute a generically equivalent drug or an interchangeable biologic for the prescribed product in accordance with chapter 69.41 RCW.

(3) This section applies to plans issued or renewed on or after January 1, 2019.

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