
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Chapter 328, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§328-A Immunosuppressant drugs; no substitution; post-
5 operative transplant patients. (a) When a prescribing
6 physician has prescribed an immunosuppressant drug and has
7 indicated "do not substitute" on the prescription, a pharmacist
8 shall not substitute or interchange another immunosuppressant
9 drug or formulation if the immunosuppressant drug or formulation
10 is issued to inhibit or prevent the activity of the immune
11 system of a patient to prevent the rejection of transplanted
12 organs and tissues. A pharmacist may substitute or interchange
13 another immunosuppressant drug or formulation if the pharmacist
14 has been notified and has received the documented consent of:

- 15 (1) The prescribing physician and patient;
16 (2) The parent or guardian if the patient is a child; or
17 (3) The spouse of a patient who is authorized to consent
18 to the treatment of the person.



1 **(b) For the purposes of this section, the term**
2 **"immunosuppressant drugs" means drugs that are used in**
3 **immunosuppressive therapy to inhibit or prevent the activity of**
4 **the immune system and that are used clinically to prevent the**
5 **rejection of transplanted organs and tissues, but does not**
6 **include drugs for the treatment of autoimmune diseases or**
7 **diseases that are most likely of autoimmune origin."**

8 SECTION 2. Chapter 431, article 10A, Hawaii Revised
9 Statutes, is amended by adding a new section to part I to be
10 appropriately designated and to read as follows:

11 **"§431:10A-B Immunosuppressant drugs; post-operative**
12 **transplant patients; same charges. (a) Except as provided in**
13 **subsections (b) and (c), insured co-payments, deductibles, or**
14 **other charges for the prescribed drug for which another**
15 **immunosuppressant drug or formulation is not interchanged shall**
16 **remain the same for the agreement period established by a policy**
17 **of accident and health or sickness insurance.**

18 **(b) No less than sixty days prior to making any formulary**
19 **change that alters the terms of coverage for an insured**
20 **receiving immunosuppressant drugs or discontinues coverage for a**
21 **prescribed immunosuppressant drug that an insured is receiving,**
22 **a health insurer under this part shall notify:**



- 1 (1) The prescribing physician and the insured;
- 2 (2) The insured, if the patient is a covered dependent; or
- 3 (3) The spouse of an insured who is authorized to consent
- 4 to the treatment of the insured.

5 The notification shall be in writing and shall disclose the
6 formulary change, indicate that the prescribing physician may
7 initiate an appeal, and include information regarding the
8 procedure for the prescribing physician to initiate the policy's
9 appeal process; provided that if the insured affirmatively
10 elects to receive notice electronically, the notice may be
11 provided electronically.

12 (c) At the time an insured requests a refill of the
13 immunosuppressant drug, the insured may be provided the written
14 notification required along with a sixty-day supply of the
15 immunosuppressant drug under the same terms as previously
16 allowed.

17 (d) For the purposes of this section, the term
18 "immunosuppressant drugs" has the same meaning as in section
19 328-A(b).

20 (e) Nothing in this section shall prohibit insurers or
21 pharmacy benefit managers from using managed pharmacy care
22 tools, including but not limited to formulary tiers, generic



1 substitution, therapeutic interchange, prior authorization, or
2 step therapy, so long as an exception process is in place
3 allowing the prescriber to petition for coverage of a non-
4 preferred drug if sufficient clinical reasons justify an
5 exception to the normal protocol."

6 SECTION 3. Chapter 431, article 10A, Hawaii Revised
7 Statutes, is amended by adding a new section to part II to be
8 appropriately designated and to read as follows:

9 "§431:10A-C Immunosuppressant drugs; no substitution;
10 post-operative transplant patients. Every person insured under
11 a group or blanket disability insurance policy shall be entitled
12 to the benefits specified in section 431:10A-B."

13 SECTION 4. Chapter 432, article 1, Hawaii Revised
14 Statutes, is amended by adding a new section to be appropriately
15 designated and to read as follows:

16 "§432:1-D Immunosuppressant drugs; post-operative
17 transplant patients; same charges. (a) Except as provided in
18 subsections (b) and (c), subscriber or member co-payments,
19 deductibles, or other charges for the prescribed drug for which
20 another immunosuppressant drug or formulation is not
21 interchanged shall remain the same for the agreement period



1 established by an individual and group hospital or medical
2 service plan, policy, contract, or agreement.

3 (b) No less than sixty days prior to making any formulary
4 change that alters the terms of coverage for a subscriber or
5 member receiving immunosuppressant drugs or discontinues
6 coverage for a prescribed immunosuppressant drug that a
7 subscriber or member is receiving, an individual and group
8 hospital or medical service plan, policy, contract, or agreement
9 under this article shall notify:

10 (1) The prescribing physician and the subscriber or
11 member;

12 (2) The subscriber or member, if the patient is a covered
13 dependent; or

14 (3) The spouse of a subscriber or member who is authorized
15 to consent to the treatment of the subscriber or
16 member.

17 The notification shall be in writing and shall disclose the
18 formulary change, indicate that the prescribing physician may
19 initiate an appeal, and include information regarding the
20 procedure for the prescribing physician to initiate the
21 agreement's appeal process; provided that if the subscriber or



1 member affirmatively elects to receive notice electronically,
2 the notice may be provided electronically.

3 (c) At the time a subscriber or member requests a refill
4 of the immunosuppressant drug, the subscriber or member may be
5 provided the written notification required along with a sixty-
6 day supply of the immunosuppressant drug under the same terms as
7 previously allowed.

8 (d) For the purposes of this section, the term
9 "immunosuppressant drugs" has the same meaning as in section
10 328-A(b).

11 (e) Nothing in this section shall prohibit an individual
12 and group hospital or medical service plan, policy, contract, or
13 agreement or a pharmacy benefit manager from using managed
14 pharmacy care tools, including but not limited to formulary
15 tiers, generic substitution, therapeutic interchange, prior
16 authorization, or step therapy, so long as an exception process
17 is in place allowing the prescriber to petition for coverage of
18 a non-preferred drug if sufficient clinical reasons justify an
19 exception to the normal protocol."

20 SECTION 5. Section 432D-23, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§432D-23 Required provisions and benefits.
2 Notwithstanding any provision of law to the contrary, each
3 policy, contract, plan, or agreement issued in the State after
4 January 1, 1995, by health maintenance organizations pursuant to
5 this chapter, shall include benefits provided in sections
6 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
7 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,
8 431:10A-125, 431:10A-126, [~~and~~] 431:10A-122, and 431:10A-B, and
9 chapter 431M."

10 SECTION 6. In codifying the new sections added by sections
11 1, 2, 3, and 4 of this Act, the revisor of statutes shall
12 substitute appropriate section numbers for the letters used in
13 designating the new sections in this Act.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

Cindy Evans

JAN 21 2011



Report Title:

Health Insurance; Immunosuppressant Drugs; Post-Operative Transplant Patients

Description:

Prohibits pharmacists, health insurers, mutual benefit societies, and health maintenance organizations from substituting medications prescribed to post-operative transplant patients when a prescribing physician indicates "do not substitute".

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

