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Chapter No. 500

11/SS26/R989SG

JW RC/TB

***SENATE BILL NO. 2737***

Originated in Senate \_\_\_\_\_ Secretary

SENATE BILL NO. 2737

AN ACT TO PROVIDE FOR THE STEP THERAPY OR FAIL-FIRST PROTOCOLS BY A PRESCRIBING PRACTITIONER UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

**SECTION 1.** (1) When medications for the treatment of any medical condition are restricted for use by an insurer by a step therapy or fail-first protocol, the prescribing practitioner shall have access to a clear and convenient process to expeditiously request an override of that restriction from the insurer. An override of that restriction shall be expeditiously granted by the insurer under the following circumstances:

(a) The prescribing practitioner can demonstrate, based on sound clinical evidence, that the preferred treatment required under step therapy or fail-first protocol has been ineffective in the treatment of the insured's disease or medical condition; or

(b) Based on sound clinical evidence or medical and scientific evidence:

(i) The prescribing practitioner can demonstrate that the preferred treatment required under the step therapy or fail-first protocol is expected or likely to be ineffective based on the known relevant physical or mental characteristics of the insured and known characteristics of the drug regimen; or

(ii) The prescribing practitioner can demonstrate that the preferred treatment required under the step therapy or fail-first protocol will cause or will likely cause an adverse reaction or other physical harm to the insured.

(2) The duration of any step therapy or fail-first protocol shall not be longer than a period of thirty (30) days when the treatment is deemed clinically ineffective by the prescribing practitioner. When the prescribing practitioner can demonstrate, through sound clinical evidence, that the originally prescribed medication is likely to require more than thirty (30) days to provide any relief or an amelioration to the insured, the step therapy or fail-first protocol may be extended up to seven (7) additional days.

(3) As used in this section:

(a) "Insurer" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract or agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan. However, the term "insurer" does not include a preferred provider organization that is only a network of providers and does not define health care benefits for the purpose of coverage under a health care benefits plan.

(b) "Practitioner" has the same meaning as defined in Section 73-21-73.

**SECTION 2.** This act shall take effect and be in force from and after January 1, 2012.

PASSED BY THE SENATE  
March 28, 2011

  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 28, 2011

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
GOVERNOR

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