

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB 1408

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: DeSteph

3. Committee: Commerce and Labor

4. Title: Step therapy protocols.

5. Summary: Requires health benefit plans that restrict the use of any prescription drug through the use of a step therapy protocol to have in place a clear, convenient, and expeditious process for a prescribing medical provider to request an override of such restrictions for a patient. A step therapy protocol is a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition are medically appropriate for a particular covered person and are covered by a health benefit plan or that conditions coverage of a prescription medication on a patient first trying an alternative medication without success. The measure requires the granting of a step therapy protocol override if (i) the required prescription drug is contraindicated or will likely cause an adverse reaction or physical or mental harm to the patient; (ii) the required prescription drug is expected to be ineffective on the basis of the known relevant physical or mental characteristics of the covered person and the known characteristics of the prescription drug regimen; (iii) the covered person has tried the required prescription drug while under his current or a previous health benefit plan or another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event; or (iv) the required prescription drug is not in the best interest of the covered person, based on medical appropriateness.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate – see Item 8.

8. Fiscal Implications: There is no fiscal impact on the State Corporation Commission. However, based on data provided by the Commonwealth's insurance carrier to the Department of Human Resource Management, establishing a provider override process for step therapy protocols could result in a fiscal impact to the state health plan; however, such impact is currently indeterminate.

Step therapy protocols generally require health insurance plan members to try less expensive but therapeutically comparable medications or treatments before the insurance provider will approve payment for more expensive medications or treatments. The Commonwealth's insurance carrier indicates that a step therapy override process may result in additional costs to the state health insurance plan as these less expensive treatments may not be the first treatment that a plan member receives.

The Commonwealth's insurance carrier indicated that for every one percent (1%) of step therapy cases that are overridden, the state's health insurance plan costs would increase by \$47,000. This amount is scalable such that if two percent (2%) of step therapy cases were overridden, the cost would double to \$94,000. These amounts are provided for informational purposes as neither DHRM nor the Commonwealth's insurance carrier can currently estimate how many step therapy overrides will be requested, because they cannot identify any reliable indicators to accurately predict prescriber behavior.

Current health insurance fund splits assume that the general fund share of any cost increase to the plan is approximately 41 percent. Therefore, approximately 41 percent of any increased costs due to step therapy overrides would be paid by the general fund. At this time, the potential number of step therapy overrides is unknown therefore the fiscal impact of this legislation is indeterminate.

The Department of Health and the Department of Medical Assistance Services have indicated this bill would not impact their agencies.

9. Specific Agency or Political Subdivisions Affected: Department of Human Resource Management, Administration of Health Insurance, State Corporation Commission Bureau of Insurance.

10. Technical Amendment Necessary: Consideration should be given to amending the definition of "step therapy protocol override" on lines 31 and 32 as follows:

"...rationale and documentation, that ~~as to whether a step therapy protocol should apply in a particular situation or whether~~ the step therapy protocol..."

This amendment would clarify that a "step therapy protocol override" means a determination that step therapy should be overridden instead of applied (see line 39 which refers to granting an override).

11. Other Comments: Delegate Davis introduced House Bill 362 in the 2016 Session, which was carried over and referred to the Health Insurance Reform Commission (HIRC). Health care prescribers testified before HIRC that step therapy can be a danger to patients in both medical and mental health scenarios whereas health carriers argue that step therapy ensures that patients are given receive medications which have been studied and used by numerous patients

rather than new medications pushed by pharmacy providers that may be riskier and more expensive.

2016 House Bill 362 is similar to Senate Bill 1408, and all technical comments recommended by the Bureau of Insurance to the 2016 bill have been incorporated into Senate Bill 1408. One new provision in the bill allows a patient to opt to pay for the prescribed treatment for the duration of the step therapy period. At the end of that period, the carrier must cover the prescribed treatment as it would have been covered had the person gone through step therapy. Any carrier that imposes a step therapy protocol in a specific situation must provide to the prescribing provider and patient, written notice of the protocol and the procedures for submitting an override request.

The Bureau receives complaints related to carrier step therapy protocols and assists individuals in the appeals process to obtain prescribed medications that are subject to step therapy protocols.