



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1408

Introduced 2/6/2023, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.12

from Ch. 23, par. 5-5.12

Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that drugs prescribed to residents of the following facilities are not subject to prior approval as a result of the 4-prescription limit: (i) long-term care facilities as defined in the Nursing Home Care Act; (ii) community-integrated living arrangements as defined in the Community-Integrated Living Arrangements Licensure and Certification Act; (iii) supportive living facilities as defined in the Code; (iv) intermediate care facilities for persons with developmental disabilities as defined in the ID/DD Community Care Act; and (v) medically complex for the developmentally disabled facilities as defined in the MC/DD Act.

LRB103 25962 KTG 52314 b

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-5.12 as follows:

6 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

7 Sec. 5-5.12. Pharmacy payments.

8 (a) Every request submitted by a pharmacy for
9 reimbursement under this Article for prescription drugs
10 provided to a recipient of aid under this Article shall
11 include the name of the prescriber or an acceptable
12 identification number as established by the Department.

13 (b) Pharmacies providing prescription drugs under this
14 Article shall be reimbursed at a rate which shall include a
15 professional dispensing fee as determined by the Illinois
16 Department, plus the current acquisition cost of the
17 prescription drug dispensed. The Illinois Department shall
18 update its information on the acquisition costs of all
19 prescription drugs no less frequently than every 30 days.
20 However, the Illinois Department may set the rate of
21 reimbursement for the acquisition cost, by rule, at a
22 percentage of the current average wholesale acquisition cost.

23 (c) (Blank).

1 (d) The Department shall review utilization of narcotic
2 medications in the medical assistance program and impose
3 utilization controls that protect against abuse.

4 (e) When making determinations as to which drugs shall be
5 on a prior approval list, the Department shall include as part
6 of the analysis for this determination, the degree to which a
7 drug may affect individuals in different ways based on factors
8 including the gender of the person taking the medication.

9 (f) The Department shall cooperate with the Department of
10 Public Health and the Department of Human Services Division of
11 Mental Health in identifying psychotropic medications that,
12 when given in a particular form, manner, duration, or
13 frequency (including "as needed") in a dosage, or in
14 conjunction with other psychotropic medications to a nursing
15 home resident or to a resident of a facility licensed under the
16 ID/DD Community Care Act or the MC/DD Act, may constitute a
17 chemical restraint or an "unnecessary drug" as defined by the
18 Nursing Home Care Act or Titles XVIII and XIX of the Social
19 Security Act and the implementing rules and regulations. The
20 Department shall require prior approval for any such
21 medication prescribed for a nursing home resident or to a
22 resident of a facility licensed under the ID/DD Community Care
23 Act or the MC/DD Act, that appears to be a chemical restraint
24 or an unnecessary drug. The Department shall consult with the
25 Department of Human Services Division of Mental Health in
26 developing a protocol and criteria for deciding whether to

1 grant such prior approval.

2 (g) The Department may by rule provide for reimbursement
3 of the dispensing of a 90-day supply of a generic or brand
4 name, non-narcotic maintenance medication in circumstances
5 where it is cost effective.

6 (g-5) On and after July 1, 2012, the Department may
7 require the dispensing of drugs to nursing home residents be
8 in a 7-day supply or other amount less than a 31-day supply.
9 The Department shall pay only one dispensing fee per 31-day
10 supply.

11 (h) Effective July 1, 2011, the Department shall
12 discontinue coverage of select over-the-counter drugs,
13 including analgesics and cough and cold and allergy
14 medications.

15 (h-5) On and after July 1, 2012, the Department shall
16 impose utilization controls, including, but not limited to,
17 prior approval on specialty drugs, oncolytic drugs, drugs for
18 the treatment of HIV or AIDS, immunosuppressant drugs, and
19 biological products in order to maximize savings on these
20 drugs. The Department may adjust payment methodologies for
21 non-pharmacy billed drugs in order to incentivize the
22 selection of lower-cost drugs. For drugs for the treatment of
23 AIDS, the Department shall take into consideration the
24 potential for non-adherence by certain populations, and shall
25 develop protocols with organizations or providers primarily
26 serving those with HIV/AIDS, as long as such measures intend

1 to maintain cost neutrality with other utilization management
2 controls such as prior approval. For hemophilia, the
3 Department shall develop a program of utilization review and
4 control which may include, in the discretion of the
5 Department, prior approvals. The Department may impose special
6 standards on providers that dispense blood factors which shall
7 include, in the discretion of the Department, staff training
8 and education; patient outreach and education; case
9 management; in-home patient assessments; assay management;
10 maintenance of stock; emergency dispensing timeframes; data
11 collection and reporting; dispensing of supplies related to
12 blood factor infusions; cold chain management and packaging
13 practices; care coordination; product recalls; and emergency
14 clinical consultation. The Department may require patients to
15 receive a comprehensive examination annually at an appropriate
16 provider in order to be eligible to continue to receive blood
17 factor.

18 (i) On and after July 1, 2012, the Department shall reduce
19 any rate of reimbursement for services or other payments or
20 alter any methodologies authorized by this Code to reduce any
21 rate of reimbursement for services or other payments in
22 accordance with Section 5-5e.

23 (j) On and after July 1, 2012, the Department shall impose
24 limitations on prescription drugs such that the Department
25 shall not provide reimbursement for more than 4 prescriptions,
26 including 3 brand name prescriptions, for distinct drugs in a

1 30-day period, unless prior approval is received for all
2 prescriptions in excess of the 4-prescription limit. Drugs in
3 the following therapeutic classes shall not be subject to
4 prior approval as a result of the 4-prescription limit:
5 immunosuppressant drugs, oncolytic drugs, anti-retroviral
6 drugs, and, on or after July 1, 2014, antipsychotic drugs. On
7 or after July 1, 2014, the Department may exempt children with
8 complex medical needs enrolled in a care coordination entity
9 contracted with the Department to solely coordinate care for
10 such children, if the Department determines that the entity
11 has a comprehensive drug reconciliation program.

12 Drugs prescribed to residents of the following facilities
13 are not subject to prior approval as a result of the
14 4-prescription limit:

15 (1) Long-term care facilities as defined in Section
16 1-113 of the Nursing Home Care Act.

17 (2) Community-integrated living arrangements as
18 defined in subsection (d) of Section 3 of the
19 Community-Integrated Living Arrangements Licensure and
20 Certification Act.

21 (3) Supportive living facilities as defined in Section
22 5-5.01a of this Code.

23 (4) Intermediate care facilities for persons with
24 developmental disabilities as defined in Section 1-113 of
25 the ID/DD Community Care Act.

26 (5) Medically complex for the developmentally disabled

1 facilities as defined in Section 1-113 of the MC/DD Act.

2 (k) No medication therapy management program implemented
3 by the Department shall be contrary to the provisions of the
4 Pharmacy Practice Act.

5 (l) Any provider enrolled with the Department that bills
6 the Department for outpatient drugs and is eligible to enroll
7 in the federal Drug Pricing Program under Section 340B of the
8 federal Public Health Service Act shall enroll in that
9 program. No entity participating in the federal Drug Pricing
10 Program under Section 340B of the federal Public Health
11 Service Act may exclude fee-for-service Medicaid from their
12 participation in that program, however, entities defined in
13 Section 1905(1)(2)(B) of the Social Security Act are excluded
14 from this requirement. This subsection does not apply to
15 outpatient drugs billed to Medicaid managed care
16 organizations.

17 (Source: P.A. 102-558, eff. 8-20-21; 102-778, eff. 7-1-22.)