



## Ohio Revised Code

### Section 3901.832 Step therapy exemption.

Effective: April 5, 2019

Legislation: Senate Bill 265 - 132nd General Assembly

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(A)(1)(a) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by a health plan issuer or utilization review organization through the use of a step therapy protocol, the health plan issuer or utilization review organization shall provide the prescribing health care provider access to a clear, easily accessible, and convenient process to request a step therapy exemption on behalf of a covered individual. A health plan issuer or utilization review organization may use its existing medical exceptions process to satisfy this requirement.

(b) A step therapy exemption request shall include supporting documentation and rationale.

(2)(a) A health plan issuer shall make available, to all health care providers, a list of all drugs covered by the issuer that are subject to a step therapy protocol. If the health plan issuer offers more than one health benefit plan, and the covered drugs subject to a step therapy protocol vary from one plan to another, then the health plan issuer shall issue a separate list for each plan.

(b) Along with the information required under division (A)(2)(a) of this section, a health plan issuer shall indicate what information or documentation must be provided to the issuer or organization for a step therapy exemption request to be considered complete. Such information shall be provided for each drug, if the requirements vary according to the drug, plan, or protocol in question.

(3)(a) The list required under division (A)(2)(a) of this section, along with the required information or documentation described in division (A)(2)(b) of this section, shall be made available on the issuer's web site or provider portal.

(b) A utilization review organization shall, for each health benefit plan it oversees that implements a step therapy protocol, similarly make the list and information required under divisions (A)(2)(a) and (b) of this section available on its web site or provider portal.

(4) From the time a step therapy exemption request is received by a health plan issuer or utilization



review organization, the issuer or organization shall either grant or deny the request within the following time frames:

(a) Forty-eight hours for a request related to urgent care services;

(b) Ten calendar days for all other requests.

(5)(a) A provider may, on behalf of the covered individual, appeal any exemption request that is denied.

(b) From the time an appeal is received by a health plan issuer or utilization review organization, the issuer or organization shall either grant or deny the appeal within the following time frames:

(i) Forty-eight hours for appeals related to urgent care services;

(ii) Ten calendar days for all other appeals.

(c) The appeal shall be between the health care provider requesting the service in question and a clinical peer, as defined in section 3923.041 of the Revised Code.

(d)(i) The appeal shall be considered an internal appeal for purposes of section 3922.03 of the Revised Code.

(ii) A health plan issuer shall not impose a step therapy exemption appeal as an additional level of appeal beyond what is required under section 3922.03 of the Revised Code, unless otherwise permitted by law.

(e)(i) If the appeal does not resolve the disagreement, the covered individual, or the covered individual's authorized representative, may request an external review under Chapter 3922. of the Revised Code to the extent Chapter 3922. of the Revised Code is applicable.

(ii) As used in division (A)(5)(e) of this section, "authorized representative" has the same meaning as in section 3922.01 of the Revised Code.



(6) If a health plan issuer or utilization review organization does not either grant or deny an exemption request or an appeal within the time frames prescribed in division (A)(4) or (5) of this section, then such an exemption request or appeal shall be deemed to be granted.

(B) Pursuant to a step therapy exemption request initiated under division (A)(1) of this section or an appeal made under division (A)(5) of this section, a health plan issuer or utilization review organization shall grant a step therapy exemption if any of the following are met:

(1) The required prescription drug is contraindicated for that specific patient, pursuant to the drug's United States food and drug administration prescribing information.

(2) The patient has tried the required prescription drug while under their current, or a previous, health benefit plan, or another United States food and drug administration approved AB-rated prescription drug, and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event.

(3) The patient is stable on a prescription drug selected by the patient's health care provider for the medical condition under consideration, regardless of whether or not the drug was prescribed when the patient was covered under the current or a previous health benefit plan, or has already gone through a step therapy protocol. However, a health benefit plan may require a stable patient to try a pharmaceutical alternative, per the federal food and drug administration's orange book, purple book, or their successors, prior to providing coverage for the prescribed drug.

(C) Upon the granting of a step therapy exemption, the health plan issuer or utilization review organization shall authorize coverage for the prescription drug prescribed by the patient's treating health care provider.

(D) This section shall not be construed to prevent either of the following:

(1) A health plan issuer or utilization review organization from requiring a patient to try any new or existing pharmaceutical alternative, per the federal food and drug administration's orange book, purple book, or their successors, prior to providing or renewing coverage for the prescribed drug;



(2) A health care provider from prescribing a prescription drug, consistent with medical or scientific evidence.

(E) Committing a series of violations of this section that, taken together, constitute a practice or pattern shall be considered an unfair and deceptive practice under sections 3901.19 to 3901.26 of the Revised Code.