



New law helps patients, doctors sidestep step therapy

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A bill passed unanimously by the state Legislature provides patients and doctors with an expedited process for getting exceptions to step therapy -- a common practice, also known as "fail first."

By Amy Neff Roth

Verona resident Kathleen Arntsen had a lot more than 2017 to celebrate on New Year's Eve.

The governor signed a bill that evening for which she and many health advocates across the state had fought hard for the last six years. The bill, passed unanimously by the state Legislature and backed by dozens of health advocacy groups, provides patients and doctors with an expedited process for getting exceptions to step therapy.

Step therapy is a common practice, also known as "fail first", through which insurers require patients with certain conditions - such as heartburn, high cholesterol and rheumatoid arthritis - to start treatment on a widely effective, relatively inexpensive medication. If that treatment doesn't work, patients move to the next step. Once patients have moved through all the steps - and the number varies depending on the insurer and patient's condition - the patient can go on another medication.

"Forcing patients to fail treatment based on cost consideration, not clinical consideration, can be dangerous and harmful and it is ethically inappropriate," said Arntsen, president/CEO of the Lupus and Allied Diseases Association, who herself has multiple autoimmune diseases.

If a health care provider believes that the medication called for by step therapy is not the best choice for the patient, the new law provides an appeals process that must bring a decision within 72 hours, or 24 hours in an emergency. Patients and providers had complained that the previous appeals process was too slow, delaying care unwisely.

"If they're easing up restrictions on step therapy, that's phenomenal," said Steve Wood, director for insurance programs for ACR Health. He said he's particularly seen patients have problems with step therapy for insulin, asthma inhalers and mental health medication.

"Health plans utilize step therapy protocols in a limited number of high-cost drug classes, in which there is an equally effective and more affordable alternative," said Deborah Fasser, spokeswoman for the New York State Conference of Blue Cross and Blue Shield Plans. "This practice also protects consumers from having to pay higher premiums based on unnecessary high cost drugs that are aggressively marketed by drug manufacturers."

Insurers did not back the bill, arguing that an appeals process already existed and that it would drive up health care costs.

"Our health plans continually strive to provide consumers with quality, affordable health coverage," Fasser said. "One of the biggest threats to achieving this goal is the rising cost of prescription medications. Prescription drug costs are increasing by double digits and growing faster than spending on any other health care service."

But in some cases, doctors know that a particular drug is not the best option for a patient, but the old appeals process slowed the already often slow process of finding the right drug combination for a patient, argued Glenn Liebman, CEO of the Mental Health Association in New York State.

"With mental health, we know what happens," he said. "Somebody gets on a medication through step therapy that might have been not appropriate for them. And ...; I think more with mental health medications, it takes a while to titrate the person off that medication (if it doesn't work). You have that weaning process," he said.

Step therapy is fine for the average patient, but not for those with more complex conditions or unusual situations who don't do best with a "one-size-fits-all" approach, Arntsen said. Delaying physician-recommended care can drive up costs if patients get sicker, she said.

Arntsen went through step therapy once for eye drops, she said.

"In the long run, it was costlier for them to make me fail than for them to just give me the appropriate treatment up front," she said.

She said language in the bill limits the circumstances in which appeals will succeed. Insurers called the language too vague, though.

They also called the timing problematic.

"Plans have already submitted, and the Department of Financial Services has approved, product filings, contracts and rates for 2017 policies - for the New York State of Health (NYSOH, the state's health insurance exchange) and off-exchange coverage," read a statement put out by the New York Health Plan Association. "And there is no process to add to or otherwise modify these policies, nor adjust premiums to reflect the new costs of the bill.