

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill
3 No. 766 entitled “An act relating to prior authorization and step therapy
4 requirements, health insurance claims, and provider contracts” respectfully
5 reports that it has considered the same and recommends that the Senate
6 propose to the House that the bill be amended by striking out Sec. 1, 8 V.S.A.
7 § 4089i, in its entirety and inserting in lieu thereof a new Sec. 1 to read as
8 follows:

9 Sec. 1. 8 V.S.A. § 4089i is amended to read:

10 § 4089i. PRESCRIPTION DRUG COVERAGE

11 * * *

12 (e)(1) A health insurance or other health benefit plan offered by a health
13 insurer or by a pharmacy benefit manager on behalf of a health insurer that
14 provides coverage for prescription drugs and uses step-therapy protocols shall:

15 (A) not require failure, including discontinuation due to lack of
16 efficacy or effectiveness, diminished effect, or an adverse event, on the same
17 medication on more than one occasion for ~~continuously enrolled members or~~
18 ~~subscribers~~ insureds who are continuously enrolled in a plan offered by the
19 insurer or its pharmacy benefit manager; and

20 (B) grant an exception to its step-therapy protocols upon request of
21 an insured or the insured’s treating health care professional under the same

1 time parameters as set forth for prior authorization requests in 18 V.S.A.

2 § 9418b(g)(4) if any one or more of the following conditions apply:

3 (i) the prescription drug required under the step-therapy protocol
4 is contraindicated or will likely cause an adverse reaction or physical or mental
5 harm to the insured;

6 (ii) the prescription drug required under the step-therapy protocol
7 is expected to be ineffective based on the insured's known clinical history,
8 condition, and prescription drug regimen;

9 (iii) the insured has already tried the prescription drugs on the
10 protocol, or other prescription drugs in the same pharmacologic class or with
11 the same mechanism of action, which have been discontinued due to lack of
12 efficacy or effectiveness, diminished effect, or an adverse event, regardless of
13 whether the insured was covered at the time on a plan offered by the current
14 insurer or its pharmacy benefit manager;

15 (iv) the insured is stable on a prescription drug selected by the
16 insured's treating health care professional for the medical condition under
17 consideration; or

18 (v) the step-therapy protocol or a prescription drug required under
19 the protocol is not in the patient's best interests because it will:

20 (I) pose a barrier to adherence;

21 (II) likely worsen a comorbid condition; or

1 (III) likely decrease the insured’s ability to achieve or maintain
2 reasonable functional ability.

3 (2) Nothing in this subsection shall be construed to prohibit the use of
4 tiered co-payments for members or subscribers not subject to a step-therapy
5 protocol.

6 (3) Notwithstanding any provision of subdivision (1) of this subsection
7 to the contrary, a health insurance or other health benefit plan offered by an
8 insurer or by a pharmacy benefit manager on behalf of a health insurer that
9 provides coverage for prescription drugs shall not utilize a step-therapy, “fail
10 first,” or other protocol that requires documented trials of a medication,
11 including a trial documented through a “MedWatch” (FDA Form 3500), before
12 approving a prescription for the treatment of substance use disorder.

13 * * *

14 (i) A health insurance or other health benefit plan offered by a health
15 insurer or by a pharmacy benefit manager on behalf of a health insurer shall
16 cover, for beneficiaries under 18 years of age and without requiring prior
17 authorization, at least one readily available asthma controller medication from
18 each class of medication and mode of administration that is clinically,
19 developmentally, and age appropriate for each age of beneficiary under 18
20 years of age. As used in this subsection, “readily available” means that the
21 medication is not listed on a national drug shortage list, including lists

1 maintained by the U.S. Food and Drug Administration and by the American
2 Society of Health-System Pharmacists.

3 (j) As used in this section:

4 * * *

5 (j)(k) The Department of Financial Regulation shall enforce this section
6 and may adopt rules as necessary to carry out the purposes of this section.

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17 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE