

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 341

As Amended by Senate Committee of the Whole

Brief*

SB 341, as amended, would remove the prohibition on the Kansas Department of Health and Environment (KDHE) from requiring a Medicaid recipient to use or fail with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's physician (a practice commonly referred to as step therapy). The bill would allow a recipient to receive a physician-recommended product or drug therapy commenced on or before July 1, 2016, without first going through step therapy.

Further, the bill would require the Secretary of Health and Environment to study and review the use of step therapy in Medicaid; prepare a report detailing the total funds saved under the program and the percentage and amount of such savings returned to the State; and submit such report to the Senate Committee on Public Health and Welfare, the Senate Committee on Ways and Means, the House Committee on Appropriations, and the House Committee on Health and Human Services on or before January 9, 2017, and on or before the first day of each subsequent legislative session.

Background

Step therapy is the practice of beginning drug therapy for a medical condition with the most cost-effective drug proven effective for most individuals with similar conditions

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

before moving to a higher-cost drug for treatment or management of a medical condition.

At the Senate Committee on Public Health and Welfare hearing, Senator Denning and a representative of KDHE testified in favor of the bill, stating step therapy is used in commercial insurance, in Medicare, and with the dual-eligible population within KanCare. The proponents stated the use of step therapy for new prescriptions in Medicaid would control costs while effectively treating the patient's medical condition using evidence-based practice methods. Written testimony in favor of the bill was provided by a representative of America's Health Insurance Plans and by a physician.

Testimony in opposition to the bill was provided by Representative Boldra and representatives of the International Pain Foundation, Kansas Mental Health Association, Mental Health America of the Heartland, National Alliance on Mental Illness, National Multiple Sclerosis Society, Ryan White HIV Clinic, and Stormont-Vail Health. The opponents generally testified that removing the prohibition on step therapy would increase the workload and financial impact on health care providers, allow insurance companies rather than a patient's medical provider to be in control of medical decision-making, and place patients at risk of not receiving needed treatments, and it could result in an increase in costs if the step therapy medication is not effective. Several opponents expressed concern as to the applicability of step therapy to behavioral health drugs and whether the bill would require the use of step therapy for a patient currently being treated with an effective prescription regimen. Written testimony in opposition was submitted by representatives of the Arthritis Foundation, Black Health Care Coalition, the Epilepsy Foundation, Kansas Association of Osteopathic Medicine, Kansas Medical Society, Kansas Rheumatology Alliance, Midwest Hemophilia Association, Pharmaceutical Research and Manufacturers of America, and State Pain Policy Advocacy Network; three physicians; and a registered nurse.

Written neutral testimony was submitted by a representative of the Association of Community Mental Health Centers of Kansas, Inc.

At the time of Senate Committee deliberation on the bill, written information was provided by the Secretary of Health and Environment clarifying the goals and implementation process for step therapy in the state's Medicaid program, KanCare. The information clarified any policy on step therapy for behavioral health medications first would be created and approved by the Mental Health Medication Advisory Committee and then approved by the Drug Utilization Review (DUR) Board. The policy on step therapy for any other drug would have to go through the DUR process for evaluation and approval. Step therapy also would apply only to members receiving new prescriptions. According to the information provided, step therapy is the industry standard and aligns directly with evidence-based practice.

The Senate Committee amended the bill to not require step therapy prior to allowing a Medicaid recipient to receive a product or drug therapy recommended by the recipient's physician if the recommended drug usage or drug therapy commenced on or before July 1, 2016.

The Senate Committee of the Whole amended the bill to require the Secretary of Health and Environment to study and review the step therapy program in Medicaid and to prepare a report on the savings under the program to be provided to named Senate and House standing committees prior to the 2017 Legislative Session and prior to each subsequent regular session.

According to the fiscal note prepared by the Division of the Budget on the original bill, enactment of the bill would result in \$10.6 million in State General Fund savings for the KDHE Division of Health Care Finance. The fiscal effect associated with the bill is included in *The FY 2017 Governor's Budget Report*.