



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Mark V. Afable, Commissioner

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Date: October 16, 2019
To: Insurers, Agents, and Interested Parties
From: Mark V. Afable, Commissioner of Insurance
Subject: Step Therapy Law, 2019 Wisconsin Act 12

On July 9, 2019, Governor Tony Evers signed into law 2019 Wisconsin Act 12 relating to step therapy protocols for prescription drug coverage (the “Step Therapy Law”) creating Wis. Stat. § 632.866.¹ The law applies to all insurers doing business in Wisconsin that utilize a step therapy protocol or contract with pharmacy benefit managers (PBMs) or utilization review organizations (UROs) that use step therapy protocols. The Office of the Commissioner of Insurance (OCI) will provide additional guidance through the administrative rule-making process. The law goes into effect on November 1, 2019. Any plan that isn’t already in compliance with the law will have to comply by January 1, 2020.

In brief, the Step Therapy Law establishes requirements that apply when step therapy protocols are utilized by insurers or by contracted PBMs or UROs. It is important to note that the law does not require insurers, PBMs, or UROs to implement a step therapy protocol. The law does require insurers, PBMs, and UROs that choose to implement a step therapy protocol to comply with the following requirements:

- The protocol must be based upon clinical review criteria;
- The process and criteria for selecting and evaluating clinical practice guidelines used to develop the protocol must be posted to the entity’s website;
- The process to request an exception must be clear, accessible, and convenient; and,
- An appeal process must be established for insureds whose request for an exception is denied.

Insurers, PBMs, and UROs that are currently utilizing step therapy protocols with an existing medical exception process satisfy the Step Therapy Law’s requirements for transparency of the exception process. Finally, when an exception is granted, the insurer, PBM, or URO shall authorize coverage of the prescription drug to the extent the prescribed drug is covered under the terms of the policy or plan.

This bulletin is a summary of the law for informational purposes and is not to be considered OCI’s interpretation of the law. Any questions concerning this bulletin may be directed to Rebecca Rebholz, Director of the Bureau of Market Regulation, at (608) 264-8111, or by email at rebecca.rebholz@wisconsin.gov.

¹ You may obtain copies of this law 2019 Senate Bill 26, 2019 Wis. Act 12 at the Legislative Reference Bureau at <http://legis.wisconsin.gov/lrb>.