

115TH CONGRESS
1ST SESSION

H. R. 2077

To amend the Employee Retirement Income Security Act of 1974 to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide an exceptions process for any medication step therapy protocol, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2017

Mr. WENSTRUP (for himself and Mr. RUIZ) introduced the following bill;
which was referred to the Committee on Education and the Workforce

A BILL

To amend the Employee Retirement Income Security Act of 1974 to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide an exceptions process for any medication step therapy protocol, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Restoring the Patient’s
5 Voice Act of 2017”.

1 **SEC. 2. REQUIRED EXCEPTIONS PROCESS FOR MEDICA-**
2 **TION STEP THERAPY PROTOCOLS.**

3 (a) IN GENERAL.—The Employee Retirement Income
4 Security Act of 1974 is amended by inserting after section
5 715 of such Act (29 U.S.C. 1185d) the following new sec-
6 tion:

7 **“SEC. 716. REQUIRED EXCEPTIONS PROCESS FOR MEDICA-**
8 **TION STEP THERAPY PROTOCOLS.**

9 “(a) IN GENERAL.—In the case of a group health
10 plan (or health insurance coverage offered in connection
11 with such a plan) that provides coverage of a prescription
12 drug pursuant to a medication step therapy protocol, the
13 plan or coverage shall—

14 “(1) implement a clear process for a participant
15 or beneficiary (or the prescribing health care pro-
16 vider) to request an exception to such medication
17 step therapy protocol; and

18 “(2) if such a request demonstrates through
19 supporting documentation that any of the cir-
20 cumstances listed in subsection (b) exists, authorize
21 coverage for the prescription drug without regard to
22 such medication step therapy protocol.

23 “(b) EXPEDITED APPROVAL.—The circumstances
24 warranting an exception to a medication step therapy pro-
25 tocol, pursuant to a request under subsection (a), are any
26 of the following:

1 “(1) The treatment otherwise required under
2 the protocol, or a drug or drugs in the same phar-
3 macological class, are contraindicated or have been
4 ineffective in the treatment of the disease or condi-
5 tion of the participant or beneficiary.

6 “(2) The treatment otherwise required under
7 the protocol is reasonably expected to be ineffective
8 based upon—

9 “(A) the known physical or mental charac-
10 teristics of the participant or beneficiary, in-
11 cluding medical history; and

12 “(B) the known characteristics of such
13 treatment.

14 “(3) The treatment otherwise required under
15 the protocol will cause or is likely to cause an ad-
16 verse reaction or other physical harm to the partici-
17 pant or beneficiary.

18 “(4) The treatment otherwise required under
19 the protocol is not in the best interest of the partici-
20 pant or beneficiary, based on medical necessity, be-
21 cause the participant or beneficiary’s use of such
22 treatment is expected to decrease the participant or
23 beneficiary’s ability—

1 “(A) to achieve or maintain reasonable and
2 safe functional ability in performing daily ac-
3 tivities or occupational responsibilities; or

4 “(B) to adhere to the treatment plan as
5 defined by the prescribing health care provider.

6 “(5) The participant or beneficiary is stable for
7 his or her disease or condition on the prescription
8 drugs selected by the prescribing health care pro-
9 vider.

10 “(c) CLEAR PROCESS.—The process required by sub-
11 section (a)(1) shall make information regarding such proc-
12 ess readily available on the website of the group health
13 plan, including—

14 “(1) the requirements for requesting an excep-
15 tion to a medication step therapy protocol pursuant
16 to this section; and

17 “(2) any necessary forms and contact informa-
18 tion.

19 “(d) TIMING FOR GRANTING EXCEPTION.—The proc-
20 ess required by subsection (a)(1) shall provide for the dis-
21 position of requests received under such paragraph in ac-
22 cordance with the following:

23 “(1) Such a request shall be granted as quickly
24 as the disease or condition of the participant or ben-

1 eficiary requires, but no later than 3 days after the
2 day of receipt of the request.

3 “(2) For circumstances in which the applicable
4 medication step therapy protocol may seriously jeopardize the life, health, or ability to regain maximum
5 function of the participant or beneficiary, such a request shall be granted—

8 “(A) on an expedited basis; and

9 “(B) no later than 24 hours after receipt
10 of such request.

11 “(e) MEDICATION STEP THERAPY PROTOCOL.—In
12 this section, the term ‘step therapy protocol’ means a protocol or program that establishes a specific sequence in
13 which prescription drugs that—

15 “(1) are for a specified disease or condition,
16 and

17 “(2) are medically necessary for a particular
18 patient,

19 are covered under a pharmacy or medical benefit by a
20 group health plan or a health insurance issuer offering
21 group or individual health insurance coverage.”.

22 (b) TECHNICAL CORRECTION; CLERICAL CHANGE.—
23 The table of contents in section 1 of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C. 1001 et

1 seq.) is amended by inserting after the item relating to
2 section 714 the following new items:

Sec. 715. Additional market reforms.

Sec. 716. Required exceptions process for medication step therapy protocols.

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) applies to plan years beginning no sooner
5 than 6 months after the date of enactment of this Act.

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