



Florida's Oral Anticancer Treatment Access Law: What Clinicians Need to Know



Outdated coverage policies in Florida USED TO limit cancer patients' access to life-saving drugs!

Traditionally, IV chemotherapy treatments are covered under a health plan's medical benefit where the patient is required to pay an office visit copay, usually between \$20 and \$30. Conversely, oral anticancer medications are covered under a health plan's prescription benefit and, many times, patients are responsible for extremely high and unmanageable copays, creating an enormous barrier for patients to access orally administered drugs. According to a recent study published in the *Journal of Oncology Practice* and *American Journal of Managed Care*, 10% of cancer patients failed to fill their initial prescriptions for oral anticancer medications due to high out-of-pocket costs.

Legislative Solution

In an effort to remove barriers to accessing life-saving treatments for cancer patients, Florida implemented a law for health policies issued or renewed on or after July 1, 2014. This law requires individual or group health policies that provide coverage for cancer treatment medications to cover orally administered cancer treatment at the same rate as IV or injected cancer treatment. Unless the IV or injected cancer treatment has a cost of less than \$50 per month, then the oral cancer treatment can have an out-of-pocket cost of up to \$50 per month. Additionally, plans may not increase the out-of-pocket cost of IV or injected cancer treatments to achieve compliance. **To view Florida's oral parity law, please see next page.**

What Does This Mean for Patients?

If a patient is *privately insured by an individual or group plan*, and their plan covers chemotherapy, an FDA-approved, orally administered drug should have the same out-of-pocket costs for the patient as an intravenously administered drug. *The law does not apply to patients on Medicare or those with a "self-insured" plan as both are exempt from state law by the federal Employee Retirement Income Security Act (ERISA).*

What to do if an insurance plan does not comply & to find out if the law applies to your health plan:

Contact the Florida Attorney General's Office of Citizen Services (CS) at 850-414-3990 or visit:

http://myfloridalegal.com/Contact.nsf/Contact?OpenForm&Section=Consumer_Protection_Division.

For information about our oral parity work in Washington, DC, please go to: peac.myeloma.org.



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FLORIDA 115TH REGULAR SESSION

CHAPTER 2013-153

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1159

2013 Fla. ALS 153; 2013 Fla. Laws ch. 153; 2013 Fla. HB 1159

SYNOPSIS: An act relating to health care; amending s. 395.4001, F.S.; revising the definition of the terms "level II trauma center" and "trauma center"; amending s. 395.401, F.S.; making conforming changes; amending s. 395.4025, F.S.; establishing criteria for designating Level II trauma centers in areas with limited access to trauma center services; amending s. 400.9905, F.S.; revising a definition; amending s. 408.036, F.S.; providing for expedited review of certificate-of-need for licensed skilled nursing facilities in qualifying retirement communities; providing criteria for expedited review for licensed skilled nursing homes in qualifying retirement communities; limiting the number of beds per retirement community that can be added through expedited review; amending s. 395.003, F.S.; authorizing certain specialty-licensed children's hospitals to provide obstetrical services under certain circumstances; providing a short title; creating ss. 627.42391 and 641.313, F.S.; providing definitions; requiring that an individual or group insurance policy or contract or a health maintenance contract that provides coverage for cancer treatment medications provide coverage for **orally** administered cancer treatment medications; requiring that an individual or group insurance policy or contract or a health maintenance contract provide coverage for **orally** administered cancer treatment medications on a basis no less favorable than that required by the policy or contract for intravenously administered or injected cancer treatment medications; excluding grandfathered health plans and other specified types of health care policies and supplemental limited-benefit plans from coverage and from coverage and cost-sharing requirements; prohibiting insurers, health maintenance organizations, and certain other entities from engaging in specified actions to avoid compliance with this act; providing limits on certain cost-sharing requirements; providing an appropriation to the Department of Health to fund the administration of the prescription drug monitoring program; providing effective dates.

NOTICE:

[A] Text within these symbols is added <A>

[D] Text within these symbols is deleted <D>

Be It Enacted by the Legislature of the State of Florida:

[*8] Section 8. Effective July 1, 2014, and applicable to policies issued or renewed on or after that date, section 627.42391, Florida Statutes, is created to read:

[A] 627.42391 Insurance policies; cancer treatment parity; **orally** administered cancer treatment medications.-- <A>

[A] (1) As used in this section, the term: <A>



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[A] (a) "Cancer treatment medication" means medication prescribed by a treating physician who determines that the medication is medically necessary to kill or slow the growth of cancerous cells in a manner consistent with nationally accepted standards of practice. <A]

[A] (b) "Cost sharing" includes copayments, coinsurance, dollar limits, and deductibles imposed on the covered person. <A]

[A] (c) "Grandfathered health plan" has the same meaning as provided in [42 U.S.C. s. 18011](#) and is subject to the conditions for maintaining status as a grandfathered health plan as specified in 45 C.F.R. s. 147.140. <A]

[A] (2) An individual or group insurance policy delivered, issued for delivery, renewed, amended, or continued in this state that provides medical, major medical, or similar comprehensive coverage and includes coverage for cancer treatment medications must also cover prescribed, **orally** administered cancer treatment medications and may not apply cost-sharing requirements for **orally** administered cancer treatment medications that are less favorable to the covered person than cost-sharing requirements for intravenous or injected cancer treatment medications covered under the policy or contract. <A]

[A] (3) An insurer providing a policy or contract described in subsection (2) and any participating entity through which the insurer offers health services may not: <A]

[A] (a) Vary the terms of the policy in effect on July 1, 2014, to avoid compliance with this section. <A]

[A] (b) Provide any incentive, including, but not limited to, a monetary incentive, or impose treatment limitations to encourage a covered person to accept less than the minimum protections available under this section. <A]

[A] (c) Penalize a health care practitioner or reduce or limit the compensation of a health care practitioner for recommending or providing services or care to a covered person as required under this section. <A]

[A] (d) Provide any incentive, including, but not limited to, a monetary incentive, to induce a health care practitioner to provide care or services that do not comply with this section. <A]

[A] (e) Change the classification of any intravenous or injected cancer treatment medication or increase the amount of cost sharing applicable to any intravenous or injected cancer treatment medication in effect on the effective date of this section in order to achieve compliance with this section. <A]

[A] (4) This section does not apply to grandfathered health plans or to Medicare supplement, dental, vision, long-term care, disability, accident only, specified disease policies, or other supplemental limited-benefit plans. <A]

[A] Notwithstanding this section, if the cost-sharing requirements for intravenous or injected cancer



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treatment medications under the policy or contract are less than \$ 50 per month, then the cost-sharing requirements for **orally** administered cancer treatment medications may be up to \$ 50 per month. <A]

[*9] Section 9. Effective July 1, 2014, and applicable to policies issued or renewed on or after that date, section 641.313, Florida Statutes, is created to read:

[A> 641.313 Health maintenance contracts; cancer treatment parity; **orally** administered cancer treatment medications.-- <A]

[A> (1) As used in this section, the term: <A]

[A> (a) "Cancer treatment medication" means medication prescribed by a treating physician who determines that the medication is medically necessary to kill or slow the growth of cancerous cells in a manner consistent with nationally accepted standards of practice. <A]

[A> (b) "Cost sharing" includes copayments, coinsurance, dollar limits, and deductibles imposed on the covered person. <A]

[A> (c) "Grandfathered health plan" has the same meaning as provided in [42 U.S.C. s. 18011](#) and is subject to the conditions for maintaining status as a grandfathered health plan as specified in 45 C.F.R. s. 147.140. <A]

[A> (2) A health maintenance contract delivered, issued for delivery, renewed, amended, or continued in this state that provides medical, major medical, or similar comprehensive coverage and includes coverage for cancer treatment medications must also cover prescribed, **orally** administered cancer treatment medications and may not apply cost-sharing requirements for **orally** administered cancer treatment medications that are less favorable to the covered person than cost-sharing requirements for intravenous or injected cancer treatment medications covered under the contract. <A]

[A> (3) A health maintenance organization providing a contract described in subsection (2) and any participating entity through which the health maintenance organization offers health services may not: <A]

[A> (a) Vary the terms of the policy in effect on July 1, 2014, to avoid compliance with this section. <A]

[A> (b) Provide any incentive, including, but not limited to, a monetary incentive, or impose treatment limitations to encourage a covered person to accept less than the minimum protections available under this section. <A]

[A> (c) Penalize a health care practitioner or reduce or limit the compensation of a health care practitioner for recommending or providing services or care to a covered person as required under this section. <A]

[A> (d) Provide any incentive, including, but not limited to, a monetary incentive, to induce a health



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care practitioner to provide care or services that do not comply with this section. <A]

[A> (e) Change the classification of any intravenous or injected cancer treatment medication or increase the amount of cost sharing applicable to any intravenous or injected cancer treatment medication in effect on the effective date of this section in order to achieve compliance with this section. <A]

[A> (4) This section does not apply to grandfathered health plans or to Medicare supplement, dental, vision, long-term care, disability, accident only, specified disease policies, or other supplemental limited-benefit plans. <A]

[A> Notwithstanding this section, if the cost-sharing requirements for intravenous or injected cancer treatment medications under the contract are less than \$ 50 per month, then the cost-sharing requirements for **orally** administered cancer treatment medications may be up to \$ 50 per month. <A]

[*10] Section 10. [A> Notwithstanding s. 893.055, Florida Statutes, for the 2013-2014 fiscal year, the sum of \$ 500,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Health for the general administration of the prescription drug monitoring program. <A]

[*11] Section 11. Except as otherwise provided in this act, this act shall take effect upon becoming a law.