Eric R. Kratz
Executive Director
ekratz@pasen.gov

Senate Committee on Labor and Industry

Senator Kim L. Ward
Chairman
Senate Box 203039 • Harrisburg, PA 17120-3039 • (717) 787-6063

Senate Bill 936
Printer's No. 1281

Prime Sponsor: White
Committee: Labor and Industry

SYNOPSIS:
Amends the Workers' Compensation Act to require the Department of Labor and Industry (Department) to adopt an evidence-based prescription drug formulary and require that Utilization Review Organizations (UROs) and Peer Review Organizations (PROs) are accredited by a nationally recognized organization selected by the Department.

SUMMARY:
Requires the Department to select a nationally recognized, evidence-based drug formulary appropriate for resolving issues related to drugs prescribed for or related to the treatment of work-related injuries. The process for selecting the formulary must include:

- Within 30 days of the effective date of the Act, the Department must have a 90 day public comment period. Notice of the public comment period must be published in the Pennsylvania Bulletin.
- At least one public hearing must be held during the public comment period.
- Within 30 days of the close of the public comment period, the Department will publish notice of its selection of a drug formulary in the Pennsylvania Bulletin.
- The formulary will take effect 180 days after publication.

The Department must consider the following in selecting the drug formulary:

- Whether the formulary focuses on medical treatment issues specific to workers' compensation.
- Whether the basis for the formulary is readily apparent and publicly available.
- Whether the formulary includes measures to aid in management of opioid medications.
- Whether the formulary appropriately limits both duration and dosage of prescriptions.
- The cost of implementing the formulary.

Requires the Department to annually review updates issued by the formulary publisher as follows:

- By November 1 of each year, the Department must solicit public comments on the proposed updates. Notice of the proposed updates and public comment period must be published in the Pennsylvania Bulletin. The public comment period must be between 20 and 30 days.
- Within 30 days of the close of the public comment period, the Department will publish notice of the adopted updates in the Pennsylvania Bulletin.
- Updates will take effect 30 days after publication.

Requires the Department to make the current formulary available through its website for reference by physicians and the general public.

Provides that prescribing of drugs not consistent with or recommended by the formulary will generally not be considered reasonable and necessary for the purposes of a utilization review.

Provides that the prescription of drugs not consistent with or recommended by the formulary may only be considered reasonable and necessary if the treating health care provider has submitted documentation of medical necessity, including evidence-based analysis of the reason for the exception, to the insurer or self-insured employer at the time of the initial prescription.

Requires the Pennsylvania Compensation Rating Bureau to calculate the savings achieved through implementation of the drug formulary within 18 months following effective date of the formulary. For the calendar year immediately following the calculation, the amount of savings shall be utilized to provide an immediate reduction in rates, equal to the savings, applicable to employers' workers' compensation policies.

Requires the Department to assign a request for utilization review to a URO at random.

Requires the report of the UROs findings to be due within the time frame required by national accreditation standards, but no more than 30 days after the request.

Provides that the Department only approve UROs that have obtained certification or accreditation by a nationally-recognized organization with standards appropriate for resolving utilization issues in workers' compensation programs.

Requires the Department to publish the nationally-recognized URO standards it selects in the Pennsylvania Bulletin within 30 days of the bills effective date.

- Provides that UROs approved prior to the effective date of standards may continue to operate without certification or accreditation for up to 18 months following publication of the standards.
- At the end of the 18 month period, every URO must adhere to the new standards for all reviews of cases where the date of injury is after the end of the transition period.

Requires the Department enter into an agreement with the selected organization to provide for certification or accreditation of UROs.

- UROs approved prior to the effective date will be allowed to participate in the initial certification or accreditation process at no cost.
- Any URO will be allowed to participate in the renewal certification or accreditation process at no cost after January 1, 2020.
- Any URO that is unsuccessful in obtaining or renewing certification or accreditation will have to repay the Department for costs that have been incurred on the URO's behalf.
- The cost of certification or accreditation will be paid by the Department out of the Workers' Compensation Administration Fund, but shall not exceed $1.5 million annually.

Requires the Department to conduct outreach to all current UROs to provide them with notice of the new standards, guidance on how the new requirements will be enforced and information on how the URO may participate in the certification or accreditation process at no cost.

Provides parity between the PRO and URO processes by requiring the peer review process and peer review organizations to comply with the requirements established for utilization review and UROs.

Requires the Department to propose regulations to implement the drug formulary and new standards for UROs within 8 months of the bill's effective date.

Effective Date: 60 days

BILL HISTORY:
Introduced 10-20-17

Prepared by: Kratz 10/20/2017