

Insurance Policies – Prescription Drug Benefits

23-79-149. Prescription drug benefits.

- (a) As used in this section, “insurance policy” means any individual, group, or blanket policy, contract, or evidence of coverage written, issued, amended, delivered, or renewed in this state, or which provides such insurance for residents of this state, by an insurance company, hospital medical corporation, or health maintenance organization.
- (b) No insurance company, hospital medical corporation, or health maintenance organization issuing insurance policies in this state shall contract with a pharmacist, pharmacy, pharmacy distributor, or wholesale drug distributor, nonresident or otherwise, to provide benefits under such insurance policies for the shipment or delivery of a dispensed legend drug into the State of Arkansas, unless the pharmacist, pharmacy or distributor has been granted a license or permit from the Arkansas State Board of Pharmacy to operate in the State of Arkansas.
- (c)
 - (1) Each insurance policy shall apply the same coinsurance, co-payment, and deductible factors to covered drug prescriptions filled by a pharmacy provider who participates in the insurance policy’s network if the provider meets the contract’s explicit product cost determination.
 - (2) Nothing in this subsection shall be construed to prohibit the insurance policy from applying different coinsurance, copayment, and deductible factors between and among generic and brand name drugs.
- (d) Insurance policies shall not set a limit on the quantity of drugs which an enrollee may obtain at any one (1) time with a prescription, unless the limit is applied uniformly to all pharmacy providers in the insurance policy’s network.
- (e)
 - (1) For the purpose of this subsection, “maintenance drug” means a drug prescribed by a practitioner who is licensed to prescribe drugs and used to treat a medical condition for a period greater than thirty (30) days.
 - (2) Insurance policies shall not insist or mandate any provider to change an enrollee’s maintenance drug, unless the prescribing provider and enrollee agree to such change.
 - (3) Notwithstanding other provisions of law to the contrary, insurance policies that change an enrollee’s maintenance drug without the consent of the provider and enrollee shall be liable to the provider or enrollee or both for any damages resulting from the change.
- (f) The Insurance Commissioner shall enforce the provisions of this section and shall impose and collect a penalty of one thousand dollars (\$1,000) for the first violation of this section and a penalty of five thousand dollars (\$5,000) for each subsequent violation of this section. In addition, the commissioner shall have all the powers to enforce this section as are granted to the commissioner elsewhere in the Arkansas Insurance Code § 23-60-101 et seq.
- (g) The commissioner shall have all the powers to enforce this section, including, but not limited to, ensuring that the different coinsurance, copayment, and deductible factors applicable between and among generic and brand name drugs are

reasonable, as are granted to the commissioner elsewhere in the Arkansas Insurance Code, § 23-60-101 et seq.

23-79-601. Definitions.

As used in this subchapter:

- (1) “Diabetes self-management training” means instruction in an inpatient or outpatient setting including medical nutrition therapy relating to diet, caloric intake and diabetes management, excluding programs the primary purposes of which are weight reduction, which enables diabetic patients to understand the diabetic management process and daily management of diabetic therapy as a method of avoiding frequent hospitalizations and complications when the instruction is provided in accordance with a program in compliance with the National Standards for Diabetes Self-Management Education program as developed by the American Diabetes Association;
- (2) “Health care insurer” means any insurance company, fraternal benefit society, hospital and medical services corporation, or health maintenance organization issuing or delivering a health insurance policy subject to any of the following laws:
 - (A) The Arkansas Insurance Code, § 23-60-101 et seq.;
 - (B) Section 23-74-101 et seq. relating to fraternal benefit societies;
 - (C) Section 23-75-101 et seq. pertaining to hospital medical service corporations;
 - (D) Section 23-76-101 et seq. pertaining to health maintenance organizations; and
 - (E) Any successor law of the foregoing; and
- (3) “Health insurance policy” means a group insurance policy, contract, or plan or an individual policy, contract, or plan which provides medical coverage on an expense incurred, service or prepaid risk-sharing basis. The term includes, but is not limited to, a policy, contract, or plan issued by an entity subject to any the following laws:
 - (A) The Arkansas Insurance Code, § 23-60-101 et seq.;
 - (B) Section 23-74-101 et seq. relating to fraternal benefit societies;
 - (C) Section 23-75-101 et seq. pertaining to hospital medical service corporations;
 - (D) Section 23-76-101 et seq. pertaining to health maintenance organizations; and
 - (E) Any successor law of the foregoing.

23-79-602. Diabetes self-management training – Licensed providers – Prescription by physician.

- (a) Every health insurance policy shall include coverage for one (1) per lifetime training program per insured for diabetes self-management training when medically necessary as determined by a physician and when provided by an appropriately licensed health care professional upon certification by the health

- care professional providing the training that the insured patient has successfully completed the training.
- (b) Every health care insurer shall offer, in addition to the one (1) lifetime training program provided in subsection (a) of this section, additional diabetes self-management training in the event that a physician prescribes additional diabetes self-management training and it is medically necessary because of a significant change in the insured's symptoms or conditions.
 - (c) A licensed health care professional shall only provide diabetes self-management training within his or her scope of practice after having demonstrated expertise in diabetes care and treatment and after having completed an educational program required by his or her licensing board when that program is in compliance with the National Standards for Diabetes Self-Management Education Program as developed by the American Diabetes Association.
 - (d) Diabetes self-management training shall be provided only upon prescription by a physician licensed under § 17-95-201 et seq.
 - (e) Nothing in this subchapter shall be construed to prohibit health care insurers from selectively negotiating contracts with qualified providers of diabetes self-management training programs.

23-79-603. Requirements.

- (a) Every health insurance policy shall include medical coverage for medically necessary equipment, supplies, and services for the treatment of Type I, Type II, and gestational diabetes, when prescribed by a physician licensed under § 17-95-201 et seq.
- (b) The coverage required by this section shall be consistent with that established for other services covered by a given health insurance policy in regard to any of the following:
 - (1) Deductibles, coinsurance, other patient cost-sharing amounts or out-of-pocket limits; or
 - (2) Prior authorization or other utilization review requirements or processes.

23-79-604. Exclusions.

This subchapter shall not be construed as prohibiting a health insurance policy from excluding from coverage diabetes self-management training or equipment or supplies and related services for the treatment of Type I, Type II, or gestational diabetes when the training, equipment, supplies, and services are not medically necessary, provided that the medical necessity determination is made in accordance with generally accepted standards of the medical profession and other applicable laws and regulations.

23-79-605. Regulations.

The State Insurance Department shall develop and promulgate regulations to implement the provisions of this subchapter.

23-79-606. Applicability – Delivery within state.

- (a) This subchapter shall apply to any health insurance policy that is delivered, issued for delivery, renewed, extended, or modified in this state on or after August 1, 1997.
- (b) If a health insurance policy provides coverage or benefits to an Arkansas resident, the policy shall be deemed to be delivered in this state within the meaning of this subchapter, regardless of whether the health care insurer or other entity that provides the coverage is located within or outside of Arkansas.

23-79-607. Applicability – Exceptions.

This subchapter shall not apply to:

- (1) Long-term care plans;
- (2) Disability income plans;
- (3) Short-term nonrenewable individual health insurance policies that expire after six (6) months;
- (4) Medical payments under homeowner or automobile insurance policies; and
- (5) Workers' compensation insurance.