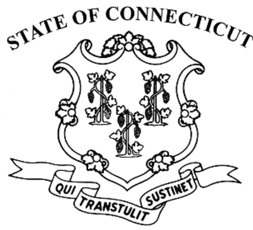

General Assembly

Amendment

February Session, 2022

LCO No. **6379**

Offered by:

REP. WOOD K., 29th Dist.
REP. PAVALOCK-D'AMATO, 77th Dist.
REP. COOK, 65th Dist.
REP. CARPINO, 32nd Dist.
REP. NUCCIO, 53rd Dist.
REP. COMEY, 102nd Dist.

To: House Bill No. **5400** File No. 302 Cal. No. 232

"AN ACT CONCERNING THE REGULATION OF INSURANCE IN THE STATE."

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1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (1) of subsection (b) of section 38a-510 of the
4 general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective October 1, 2022*):

6 (b) (1) Notwithstanding the sixty-day period set forth in subdivision
7 (2) of subsection (a) of this section, each insurance company, hospital
8 service corporation, medical service corporation, health care center or
9 other entity that uses step therapy for such prescription drugs shall
10 establish and disclose to its health care providers a process by which an
11 insured's treating health care provider may request at any time an
12 override of the use of any step therapy drug regimen. Such disclosure
13 shall be made to health care providers in writing at least once each

14 calendar year, and such health care provider shall display in a
15 conspicuous and prominent location, including the provider's Internet
16 web site and on a bulletin board in the provider's office, information
17 regarding the override process. Any such override process shall be
18 convenient to use by health care providers and an override request shall
19 be expeditiously granted when an insured's treating health care
20 provider demonstrates that the drug regimen required under step
21 therapy (A) has been ineffective in the past for treatment of the insured's
22 medical condition, (B) is expected to be ineffective based on the known
23 relevant physical or mental characteristics of the insured and the known
24 characteristics of the drug regimen, (C) will cause or will likely cause an
25 adverse reaction by or physical harm to the insured, or (D) is not in the
26 best interest of the insured, based on medical necessity. Until October 1,
27 2025, in the case of a prescribed drug for the treatment of schizophrenia,
28 major depressive disorder or bipolar disorder, as defined in the most
29 recent edition of the Diagnostic and Statistical Manual of Mental
30 Disorders, such override request shall be granted not later than twenty-
31 four hours from the time of request.

32 Sec. 2. (*Effective from passage*) (a) There is established a task force to
33 study data collection efforts regarding step therapy. Such study shall
34 include, but need not be limited to, data collection regarding step
35 therapy edits, rejections and appeals of behavioral health drugs and the
36 best methods to collect such data.

37 (b) The task force shall consist of the following members:

38 (1) The chairpersons and ranking members of the joint standing
39 committees of the General Assembly having cognizance of matters
40 relating to public health and insurance, or their designees;

41 (2) The executive director of the Office of Health Strategy, or the
42 executive director's designee;

43 (3) The Insurance Commissioner, or the Insurance Commissioner's
44 designee;

45 (4) The Commissioner of Consumer Protection, or the commissioner's
46 designee;

47 (5) One representative of the insurance industry, to be appointed by
48 the House chairperson of the joint standing committee of the General
49 Assembly having cognizance of matters relating to insurance;

50 (6) One representative of the pharmaceutical industry, to be
51 appointed by the House ranking member of the joint standing
52 committee of the General Assembly having cognizance of matters
53 relating to insurance;

54 (7) One mental health care provider, to be appointed by the House
55 chairperson of the joint standing committee of the General Assembly
56 having cognizance of matters relating to insurance; and

57 (8) One representative of a mental health advocacy group, who shall
58 be an impacted individual, to be appointed by the House ranking
59 member of the joint standing committee of the General Assembly
60 having cognizance of matters relating to public health.

61 (c) The administrative staff of the joint standing committee of the
62 General Assembly having cognizance of matters relating to public
63 health shall serve as administrative staff of the task force.

64 (d) Not later than July 1, 2023, the task force shall submit a report on
65 its findings and recommendations to the joint standing committees of
66 the General Assembly having cognizance of matters relating to
67 insurance and public health, in accordance with the provisions of
68 section 11-4a of the general statutes. The task force shall terminate on
69 the date that it submits such report or on July 1, 2023, whichever is
70 earlier.

71 Sec. 3. Section 38a-477ff of the 2022 supplement to the general statutes
72 is repealed and the following is substituted in lieu thereof (*Effective from*
73 *passage and applicable to policies delivered, issued for delivery, renewed,*
74 *amended or continued on or after January 1, 2022*):

75 (a) Each insurer, health care center, hospital service corporation,
76 medical service corporation, fraternal benefit society or other entity that
77 delivers, issues for delivery, renews, amends or continues an individual
78 or group health insurance policy in this state on or after January 1, 2022,
79 providing coverage of the type specified in subdivisions (1), (2), (4), (11)
80 and (12) of section 38a-469 shall, when calculating an insured's liability
81 for a coinsurance, copayment, deductible or other out-of-pocket expense
82 for a covered benefit, give credit for any discount provided or payment
83 made by a third party for the amount of, or any portion of the amount
84 of, the coinsurance, copayment, deductible or other out-of-pocket
85 expense for the covered benefit.

86 (b) The provisions of subsection (a) of this section shall apply to a
87 high deductible health plan, as that term is used in subsection (f) of
88 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
89 maximum extent permitted by federal law, except if such plan is used
90 to establish a medical savings account or an Archer MSA pursuant to
91 Section 220 of the Internal Revenue Code of 1986, or any subsequent
92 corresponding internal revenue code of the United States, as amended
93 from time to time, or a health savings account pursuant to Section 223
94 of said Internal Revenue Code, as amended from time to time, the
95 provisions of said subsection (a) shall apply to such plan to the
96 maximum extent that (1) is permitted by federal law, and (2) does not
97 disqualify such account for the deduction allowed under said Section
98 220 or 223, as applicable.

99 Sec. 4. Section 38a-477gg of the 2022 supplement to the general
100 statutes is repealed and the following is substituted in lieu thereof
101 (*Effective from passage and applicable to contracts entered into on or after*
102 *January 1, 2022*):

103 (a) On and after January 1, 2022, each contract entered into between
104 a health carrier, as defined in section 38a-591a, and a pharmacy benefits
105 manager, as defined in section 38a-479aaa, for the administration of the
106 pharmacy benefit portion of a health benefit plan in this state on behalf
107 of plan sponsors shall require that the pharmacy benefits manager,

108 when calculating an insured's or enrollee's liability for a coinsurance,
109 copayment, deductible or other out-of-pocket expense for a covered
110 prescription drug benefit, give credit for any discount provided or
111 payment made by a third party for the amount of, or any portion of the
112 amount of, the coinsurance, copayment, deductible or other out-of-
113 pocket expense for the covered prescription drug benefit.

114 (b) The provisions of subsection (a) of this section shall apply to a
115 high deductible health plan, as that term is used in subsection (f) of
116 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
117 maximum extent permitted by federal law, except if such plan is used
118 to establish a medical savings account or an Archer MSA pursuant to
119 Section 220 of the Internal Revenue Code of 1986, or any subsequent
120 corresponding internal revenue code of the United States, as amended
121 from time to time, or a health savings account pursuant to Section 223
122 of said Internal Revenue Code, as amended from time to time, the
123 provisions of said subsection (a) shall apply to such plan to the
124 maximum extent that (1) is permitted by federal law, and (2) does not
125 disqualify such account for the deduction allowed under said Section
126 220 or 223, as applicable.

127 Sec. 5. Section 38a-478w of the 2022 supplement to the general
128 statutes is repealed and the following is substituted in lieu thereof
129 (*Effective from passage and applicable to contracts delivered, issued for*
130 *delivery, renewed, amended or continued on or after January 1, 2022*):

131 (a) For any contract delivered, issued for delivery, renewed, amended
132 or continued in this state on or after January 1, 2022, each managed care
133 organization shall, when calculating an enrollee's liability for a
134 coinsurance, copayment, deductible or other out-of-pocket expense for
135 a covered benefit, give credit for any discount provided or payment
136 made by a third party for the amount of, or any portion of the amount
137 of, the coinsurance, copayment, deductible or other out-of-pocket
138 expense for the covered benefit.

139 (b) The provisions of subsection (a) of this section shall apply to a

140 high deductible health plan, as that term is used in subsection (f) of
141 section 38a-493 or subsection (f) of section 38a-520, as applicable, to the
142 maximum extent permitted by federal law, except if such plan is used
143 to establish a medical savings account or an Archer MSA pursuant to
144 Section 220 of the Internal Revenue Code of 1986, or any subsequent
145 corresponding internal revenue code of the United States, as amended
146 from time to time, or a health savings account pursuant to Section 223
147 of said Internal Revenue Code, as amended from time to time, the
148 provisions of said subsection (a) shall apply to such plan to the
149 maximum extent that (1) is permitted by federal law, and (2) does not
150 disqualify such account for the deduction allowed under said Section
151 220 or 223, as applicable."

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2022*	38a-510(b)(1)
Sec. 2	*from passage*	New section
Sec. 3	*from passage and applicable to policies delivered, issued for delivery, renewed, amended or continued on or after January 1, 2022*	38a-477ff
Sec. 4	*from passage and applicable to contracts entered into on or after January 1, 2022*	38a-477gg
Sec. 5	*from passage and applicable to contracts delivered, issued for delivery, renewed, amended or continued on or after January 1, 2022*	38a-478w