



Ohio Legislative Service Commission

Bill Analysis

Michael J. O'Neill

Am. S.B. 99*

130th General Assembly

(As Reported by S. Insurance and Financial Institutions)

Sens. Oelslager and Tavares, Brown, Cafaro, Gardner, Hite, Kearney, Lehner, Schiavoni, Smith, Turner, LaRose

BILL SUMMARY

- Prohibits insurers from providing less favorable coverage for orally administered cancer medication than for intravenously administered or injected cancer medications.
- Prohibits insurers from reducing coverage for either orally administered or intravenously administered or injected cancer medications to levels lower than those in place on the effective date of the bill.
- Enables the Superintendent of Insurance to impose disciplinary actions on insurers who violate the prohibition.
- Enables a court to impose the following civil penalties on insurers that violate the prohibition: up to \$35,000 in total for violations occurring in a six-month period and up to \$10,000 for each violation of a cease and desist order issued by the Superintendent.
- Names the act the "Robert L. Schuler Act."

* This analysis was prepared before the report of the Senate Insurance and Financial Institutions Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

CONTENT AND OPERATION

Overview

The bill requires parity between orally administered cancer medications and intravenously administered or injected cancer medications. The bill applies to all health plan issuers, including health insuring corporations, sickness and accident insurers, multiple employer welfare arrangements, and public employee benefit plans. The bill applies to plans that are delivered, issued for delivery, renewed, established, or modified in Ohio on or after the bill's effective date.¹

Coverage for chemotherapy treatments

Under the bill, if the plan provides coverage for cancer chemotherapy treatment, health plan issuers are prohibited from providing less favorable coverage for prescribed, orally administered medication than for intravenously administered or injected medications. This restriction prohibits imposing a coverage limit, co-payment, co-insurance, deductible, or other out-of-pocket expense that is greater than that which applies to coverage for intravenously administered or injected cancer medications.

Additionally, if the health plan provides coverage for cancer chemotherapy treatment, the health plan issuer is prohibited from reducing coverage to levels lower than those in place on the effective date of the bill for oral, intravenous, or injected cancer chemotherapy medications by doing any of the following:

- Providing less favorable coverage by increasing coverage limits, co-payments, co-insurance, deductibles, or other out-of-pocket expenses;
- Moving any such medication to a higher price tier;
- Imposing more restrictive conditions on treatments that use such medications.²

However, these prohibitions do not preclude a health plan issuer from requiring prior authorization before orally administered cancer medications are dispensed to a covered person. In addition, these prohibitions do not apply to the offer or renewal of any individual or group policy of sickness and accident insurance that provides

¹ Section 4.

² R.C. 1739.05(B), 1751.69(A), and 3923.85(A).



coverage for specific diseases or accidents only, or to any hospital indemnity, Medicare Supplement, disability income, or other policy that offers only supplemental benefits.³

Violations

The bill authorizes the Superintendent of Insurance to hold hearings to determine if a violation of the chemotherapy medication prohibitions described above has occurred.⁴

Penalties

If the Superintendent, by written order, finds that a violation has occurred, the Superintendent may levy one or more of the following penalties:

- Issue a cease and desist order;
- Suspend or revoke the violator's license (or certificate of authority in the case of a health insuring corporation);
- Order the violator to neither employ, nor permit to serve in any capacity, any individual associated with the violation for a period the Superintendent determines would best serve the public interest.⁵

Fines

In addition, the bill authorizes a court to impose either or both of the following civil penalties on the health plan issuer:

- A civil penalty of up to \$35,000 in total for one or more violations occurring in a six-month period;⁶
- A civil penalty of up to \$10,000 for each violation of a cease and desist order issued.⁷

Any amounts collected related to these penalties are to be deposited into the Department of Insurance Operating Fund and used to enforce the prohibitions enacted by the bill.⁸

³ R.C. 1739.05(B), 1751.69(B), and 3923.85(B).

⁴ R.C. 1739.05(B), 1751.69(C), and 3923.85(C).

⁵ R.C. 1751.35(A)(15), 1739.05(B), 1751.69(D), and 3923.85(D).

⁶ R.C. 1739.05(B), 1751.69(E)(1), and 3923.85(E)(1).

⁷ R.C. 1739.05(B), 1751.69(E)(2), and 3923.85(E)(2).



Exemption from review by the Superintendent of Insurance

The bill's requirements regarding coverage for chemotherapy treatments might be considered mandated health benefits. Under R.C. 3901.71, no mandated health benefits legislation enacted by the General Assembly may be applied to any policy, contract, plan, or other arrangement providing sickness and accident or other health benefits until the Superintendent determines, pursuant to a hearing conducted in accordance with the Administrative Procedure Act,⁹ that the provision can be applied fully and equally in all respects to (1) employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and (2) employee benefit plans established or modified by the state or any political subdivision of the state, or by any agency or instrumentality of the state or any political subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.¹⁰

HISTORY

ACTION	DATE
Introduced	04-09-13
Reported, S. Insurance and Financial Institutions	-----

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⁸ R.C. 1739.05(B), 1751.69(F) and 3923.85(F).

⁹ R.C. Chapter 119.

¹⁰ R.C. 1751.69(A) and 3923.85(A).

