



Ohio Legislative Service Commission

Bill Analysis

Nick Thomas

S.B. 99

130th General Assembly
(As Introduced)

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 or injected cancer medications.
- Prohibits insurers from reducing coverage for either orally administered or intravenously administered 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 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."

CONTENT AND OPERATION

Overview

The bill restricts the changes that a health plan issuer can make to coverage for cancer treatments. The bill applies to all health plan issuers, including health insuring corporations, sickness and accident insurers, multiple employer welfare arrangements,¹ and public employee benefit plans. The bill applies to plans that are delivered, issued for delivery, or renewed in Ohio on or after the bill's effective date.

¹ R.C. 1739.05(B).

Coverage for chemotherapy treatments

The bill restricts the changes that health plan issuers can make to cancer chemotherapy treatment coverage. Under the bill, if the plan provides coverage for cancer chemotherapy treatment, health plan issuers are prohibited from providing less favorable coverage for orally administered medication than for intravenously or injected medications.² Additionally, health plan issuers are prohibited from reducing coverage to levels lower than those in place on the effective date of the bill for orally, intravenously, or injected cancer chemotherapy medications by doing any of the following:

- Providing less favorable coverage through changes to coverage limits, co-payments, co-insurance, deductibles, or other out-of-pocket expenses;³
- Moving any such medication to a higher price tier;⁴
- Imposing stricter conditions on treatments that use such medications.⁵

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.⁶

Violations

The bill makes provision for violations of the chemotherapy medication prohibitions described above and authorizes the Superintendent of Insurance to hold hearings to determine if such a violation has occurred.⁷

Penalties

If the Superintendent of Insurance, 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;

² R.C. 1751.69(A)(1) and 3923.85(A)(1).

³ R.C. 1751.69(A)(2) and 3923.85(A)(2).

⁴ R.C. 1751.69(A)(3) and 3923.85(A)(3).

⁵ R.C. 1751.69(A)(4) and 3923.85(A)(4).

⁶ R.C. 1751.69(B) and 3923.85(B).

⁷ R.C. 1751.69(C) and 3923.85(C).



- 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 hire in any capacity, any individual associated with the violation for a period the Superintendent determines would best serve the public interest.⁸

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;⁹
- A civil penalty of up to \$10,000 for each violation of a cease and desist order issued.¹⁰

Any amounts collected related to these penalties are to be deposited into the Department of Insurance Operating Fund and used to enforce the prohibitions made in the bill.¹¹

Exemption from review by the Superintendent of Insurance

The requirements of this bill regarding coverage for chemotherapy treatments may 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 of Insurance determines, pursuant to a hearing conducted in accordance with the Administrative Procedure Act,¹² 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

⁸ R.C. 1751.35(A)(15), 1751.69(D), and 3923.85(D).

⁹ R.C. 1751.69(E)(1) and 3923.85(E)(1).

¹⁰ R.C. 1751.69(E)(2) and 3923.85(E)(2).

¹¹ R.C. 1751.69(F) and 3923.85(F).

¹² R.C. Chapter 119.

subdivision of the state. The bill includes provisions that exempt its requirements from this restriction.¹³

HISTORY

ACTION	DATE
Introduced	04-09-13

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¹³ R.C. 1751.69(A) and 3923.85(A).

